status by the United States Department of State. Such statement must include the following information where applicable:

(a) The name and address of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate applicant is organized;

(c) The name, title and post office address of the officer of a corporate applicant, or representative of a non-corporate applicant, to whom correspondence concerning the application is to be addressed;

(d) A statement of the ownership of a non-corporate applicant, or the ownership of the stock of a corporate applicant, including an indication whether the applicant or its stock is owned directly or indirectly by an alien;

(e) A copy of each corporate applicant's articant's articles of incorporation (or its equivalent) and of its corporate bylaws;

(f) A statement whether the applicant is a carrier subject to section 214 of the Communications Act, an operator of broadcast or other radio facilities, licensed under title III of the Act, capable of causing harmful interference with the radio transmissions of other countries, or a non-carrier provider of services classed as ''enhanced'' under § 64.702(a);

(g) A statement that the services for which designated as a recognized private operating agency is sought will be extended to a point outside the United States or are capable of causing harmful interference of other radio transmission and a statement of the nature of the services to be provided;

(h) A statement setting forth the points between which the services are to be provided; and

(i) A statement as to whether covered services are provided by facilities owned by the applicant, by facilities leased from another entity, or other arrangement and a description of the arrangement.

(j) Subject to the availability of electronic forms, all filings described in this section must be filed electronically through the International Communications Filing System (ICFS). A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 of this chapter and the ICFS homepage at *https://www.fcc.gov/icfs*. See also §§ 63.20 and 63.53.

[51 FR 18448, May 20, 1986, as amended at 69 FR 29902, May 26, 2004; 70 FR 38800, July 6, 2005; 88 FR 21445, Apr. 10, 2023]

§ 63.702 Form.

Application under § 63.701 shall be submitted in the form specified in § 63.53 for applications under section 214 of the Communications Act.

[51 FR 18448, May 20, 1986]

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart A [Reserved]

Subpart B—Restrictions on Indecent Telephone Message Services

Subpart C [Reserved]

Subpart D—Procedures for Handling Priority Services in Emergencies

Subpart E [Reserved]

Subpart F—Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities

Subpart P—Calling Party Telephone Number; Privacy

Subpart Q—Implementation of Section 273(d)(5) of the Communications Act: Dispute Resolution Regarding Equipment Standards

Subpart R—Geographic Rate Averaging and Rate Integration

Subpart S—Nondominant Interexchange Carrier Certifications Regarding Geographic Rate Averaging and Rate Integration Requirements

Subpart T—Separate Affiliate Requirements for Incumbent Independent Local Exchange Carriers That Provide In-Region, Interstate Domestic Interexchange Services or In-Region International Interexchange Services

Subpart U—Customer Proprietary Network Information

Subpart V—Rural Call Completion

Subpart W—Ring Signaling Integrity

Subpart X—Subscriber List Information

Subpart Y—Truth-in-Billing Requirements for Common Carriers; Billing for Unauthorized Charges

Subpart Z—Prohibition on Exclusive Telecommunications Contracts

Subpart AA [Reserved]

Subpart BB—Restrictions on Unwanted Mobile Service Commercial Messages

Subpart CC—Customer Account Record Exchange Requirements

Subpart DD—Prepaid Calling Card Providers

Subpart EE—TRS Customer Proprietary Network Information.

Subpart FF—Inmate Calling Services

Subpart GG—National Deaf-Blind Equipment Distribution Program

Subpart HH—Caller ID Authentication

AUTHORITY: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 617, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

SOURCE: 28 FR 13239, Dec. 5, 1963, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Restrictions on Indecent Telephone Message Services

§ 64.201 Restrictions on indecent telephone message services.

(a) It is a defense to prosecution for the provision of indecent communications under section 223(b)(2) of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 223(b)(2), that the defendant has taken the action set forth in paragraph (a)(1) of this section and, in addition, has complied with the following: Taken one of the actions set forth in paragraphs (a)(2), (3), or (4) of this section to restrict access to prohibited communications to persons eighteen years of age or older, and has additionally complied with paragraph (a)(5) of this section, where applicable:

(1) Has notified the common carrier identified in section 223(c)(1) of the Act, in writing, that he or she is providing the kind of service described in section 223(b)(2) of the Act.

(2) Requires payment by credit card before transmission of the message; or

(3) Requires an authorized access or identification code before transmission of the message, and where the defendant has:

(i) Issued the code by mailing it to the applicant after reasonably ascertaining through receipt of a written application that the applicant is not under eighteen years of age; and

(ii) Established a procedure to cancel immediately the code of any person upon written, telephonic or other notice to the defendant's business office that such code has been lost, stolen, or used by a person or persons under the age of eighteen, or that such code is no longer desired; or

(4) Scrambles the message using any technique that renders the audio unintelligible and incomprehensible to the calling party unless that party uses a descrambler; and,

(5) Where the defendant is a message sponsor subscriber to mass announcement services tariffed at this Commission and such defendant prior to the transmission of the message has requested in writing to the carrier providing the public announcement service that calls to this message service be subject to billing notification as an adult telephone message service.

(b) A common carrier within the District of Columbia or within any State, or in interstate or foreign commerce, shall not, to the extent technically feasible, provide access to a communication described in section 223(b) of the Act from the telephone of any subscriber who has not previously requested in writing the carrier to provide access to such communication if the carrier collects from subscribers an identifiable charge for such communication that the carrier remits, in whole or in part, to the provider of such communication.

[52 FR 17761, May 12, 1987, as amended at 55 FR 28916, July 16, 1990]

Subpart C [Reserved]

Subpart D—Procedures for Handling Priority Services in Emergencies

§ 64.401 Policies and procedures for provisioning and restoring certain telecommunications services in emergencies.

The communications common carrier shall maintain and provision and, if disrupted, restore facilities and services in accordance with policies and procedures set forth in Appendix A to this part.

[65 FR 48396, Aug. 8, 2000]

§ 64.402 Policies and procedures for the provision of Wireless Priority Service by wireless service providers.

Wireless service providers that elect to provide Wireless Priority Service to National Security and Emergency Preparedness personnel shall provide Wireless Priority Service in accordance

with the policies and procedures set forth in appendix B to this part.

[87 FR 39784, July 5, 2022]

Subpart E [Reserved]

Subpart F—Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities

AUTHORITY: 47 U.S.C. 151–154; 225, 255, 303(r), 616, and 620.

SOURCE: 56 FR 36731, Aug. 1, 1991, unless otherwise noted.

§ 64.601 Definitions and provisions of general applicability.

(a) For purposes of this subpart, the term affiliate is defined in 47 CFR 52.12(a)(1)(i), and the terms majority and debt are defined in 47 CFR 52.12(a)(1)(ii).

(1) *711.* The abbreviated dialing code for accessing relay services anywhere in the United States.

(2) *ACD platform.* The hardware and/or software that comprise the essential call center function of call distribution, and that are a necessary core component of internet-based TRS.

(3) *American Sign Language (ASL).* A visual language based on hand shape, position, movement, and orientation of the hands in relation to each other and the body.

(4) *ANI.* For 911 systems, the Automatic Number Identification (ANI) identifies the calling party and may be used as the callback number.

(5) *At-home CA.* A communications assistant (CA) that a video relay service (VRS) provider authorizes to handle VRS calls at a home workstation.

(6) *At-home VRS call handling.* The handling of VRS calls by a CA at a home workstation.

(7) *ASCII.* An acronym for American Standard Code for Information Interexchange which employs an eight bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher.

(8) *Authorized provider.* An iTRS provider that becomes the iTRS user's new default provider, having obtained the user's authorization verified in accordance with the procedures specified in this part.

(9) *Baudot.* A seven bit code, only five of which are information bits. Baudot is used by some text telephones to communicate with each other at a 45.5 baud rate.

10) *Call release.* A TRS feature that allows the CA to sign-off or be ''released'' from the telephone line after the CA has set up a telephone call between the originating TTY caller and a called TTY party, such as when a TTY user must go through a TRS facility to contact another TTY user because the called TTY party can only be reached through a voice-only interface, such as a switchboard.

(11) *Carceral point-to-point video service.* A point-to-point video service that enables incarcerated people to engage in real-time direct video communication in ASL with another ASL speaker.

(12) *Common carrier or carrier.* Any common carrier engaged in interstate Communication by wire or radio as defined in section 3(h) of the Communications Act of 1934, as amended (the Act), and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b) of the Act.

(13) *Communications assistant (CA).* A person who transliterates or interprets conversation between two or more end users of TRS. CA supersedes the term ''TDD operator.''

(14) *Default provider.* The iTRS provider that registers and assigns a ten-digit telephone number to an iTRS user pursuant to § 64.611.

(15) *Default provider change order.* A request by an iTRS user to an iTRS provider to change the user's default provider.

(16) *Direct video customer support.* A telephone customer support operation that enables callers with hearing or speech disabilities to engage in real-time direct video communication in ASL with ASL speakers in a call center operation.

(17) *Enterprise videophone.* A videophone maintained by a business, organization, government agency, or other entity, and designated for use by its employees or other individuals in private or restricted areas.

(18) *Hearing carry over (HCO).* A form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use one telephone line for hearing and the other for sending TTY messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between two HCO users.

(19) Hearing point-to-point video user. A hearing individual who has been assigned a ten-digit NANP number that is entered in the TRS Numbering Directory to access point-to-point service.

(20) *Home workstation or home CA workstation.* A VRS CA's workstation in the CA's home or in any location where two or more CAs do not simultaneously handle VRS calls.

(21) *Interconnected VoIP service.* The term ''interconnected VoIP service'' has the meaning given such term under §9.3 of this chapter, as such section may be amended from time to time.

(22) *internet-based TRS (iTRS).* A telecommunications relay service (TRS) in which an individual with a hearing or a speech disability connects to a TRS communications assistant using an internet Protocol-enabled device via the internet, rather than the public switched telephone network. Except as authorized or required by the Commission, internet-based TRS does not include the use of a text telephone (TTY) or RTT over an interconnected voice over internet Protocol service.

(23) *internet Protocol Captioned Telephone Service (IP CTS).* A telecommunications relay service that permits an individual who can speak but who has difficulty hearing over the telephone to use a telephone and an internet Protocol-enabled device via the internet to simultaneously listen to the other party and read captions of what the other party is saying. With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the internet, rather than the public switched telephone network.

(24) *internet Protocol Relay Service (IP Relay).* A telecommunications relay service that permits an individual with a hearing or a speech disability to communicate in text using an internet Protocol-enabled device via the internet, rather than using a text telephone (TTY) and the public switched telephone network.

(25) *IP Relay access technology.* Any equipment, software, or other technology issued, leased, or provided by an internet-based TRS provider that can be used to make and receive an IP Relay call.

(26) *iTRS access technology.* Any equipment, software, or other technology issued, leased, or provided by an internet-based TRS provider that can be used to make and receive an internet-based TRS call.

(27) *New default provider.* An iTRS provider that, either directly or through its numbering partner, initiates or implements the process to become the iTRS user's default provider by replacing the iTRS user's original default provider.

(28) *Non-English language relay service.* A telecommunications relay service that allows persons with hearing or speech disabilities who use languages other than English to communicate with voice telephone users in a shared language other than English, through a CA who is fluent in that language.

(29) *Non-interconnected VoIP service.* The term ''non-interconnected VoIP service''—

(i) Means a service that—

(A) Enables real-time voice communications that originate from or terminate to the user's location using internet protocol or any successor protocol; and

(B) Requires internet protocol compatible customer premises equipment; and

(ii) Does not include any service that is an interconnected VoIP service.

(30) *Numbering partner.* Any entity with which an internet-based TRS provider has entered into a commercial arrangement to obtain North American Numbering Plan telephone numbers.

(31) *Original default provider.* An iTRS provider that is the iTRS user's default provider immediately before that iTRS user's default provider is changed.

(32) *Point-to-point video call.* A call placed via a point-to-point video service.

(33) *Point-to-point video service.* A service that enables a user to place and receive non-relay video calls without the assistance of a CA.

(34) *Public videophone.* A videophone maintained by a business, organization, government agency, or other entity, and made available for use by the public in a public space, such as a public area of a business, school, hospital, library, airport, or government building.

(35) *Qualified Direct Video Entity.* An individual or entity that is approved by the Commission for access to the TRS Numbering Database that is engaged in:

(i) Direct video customer support and that is the end-user customer that has been assigned a telephone number used for direct video customer support calls or is the designee of such entity; or

(ii) Carceral point-to-point video service as that term is defined in this section.

(36) *Qualified interpreter.* An interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(37) *Real-Time Text (RTT).* The term real-time text shall have the meaning set forth in § 67.1 of this chapter.

(38) *Registered internet-based TRS user.* An individual who has registered with a VRS, IP Relay, or IP CTS provider as described in § 64.611.

(39) *Registered Location.* The most recent information obtained by a VRS, IP Relay, or IP CTS provider that identifies the physical location of an end user.

(40) *Sign language.* A language which uses manual communication and body language to convey meaning, including but not limited to American Sign Language.

(41) *Speech-to-speech relay service (STS).* A telecommunications relay service that allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person.

(42) *Speed dialing.* A TRS feature that allows a TRS user to place a call using a stored number maintained by the TRS facility. In the context of TRS, speed dialing allows a TRS user to give the CA a short-hand'' name or number for the user's most frequently called telephone numbers.

(43) *Telecommunications relay services (TRS).* Telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

(44) *Text telephone (TTY).* A machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term ''TDD'' or ''telecommunications device for the deaf,'' and TT.

(45) *Three-way calling feature.* A TRS feature that allows more than two parties to be on the telephone line at the same time with the CA.

(46) *TRS Numbering Administrator.* The neutral administrator of the TRS Numbering Directory selected based on a competitive bidding process.

(47) *TRS Numbering Directory.* The database administered by the TRS Numbering Administrator, the purpose of which is to map each registered internet-based TRS user's NANP telephone number to his or her end device.

(48) *TRS User Registration Database.* A system of records containing TRS user identification data capable of:

(i) Receiving and processing subscriber information sufficient to identify unique TRS users and to ensure that each has a single default provider;

(ii) Assigning each VRS user a unique identifier;

(iii) Allowing VRS providers and other authorized entities to query the TRS User Registration Database to determine if a prospective user already has a default provider;

(iv) Allowing VRS providers to indicate that a VRS user has used the service; and

(v) Maintaining the confidentiality of proprietary data housed in the database by protecting it from theft, loss or disclosure to unauthorized persons. The purpose of this database is to ensure accurate registration and verification of VRS users and improve the efficiency of the TRS program.

(49) *Unauthorized provider.* An iTRS provider that becomes the iTRS user's new default provider without having obtained the user's authorization verified in accordance with the procedures specified in this part.

(50) *Unauthorized change.* A change in an iTRS user's selection of a default provider that was made without authorization verified in accordance with the verification procedures specified in this part.

(51) *Video relay service (VRS).* A telecommunications relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller.

(52) *Visual privacy screen.* A screen or any other feature that is designed to prevent one party or both parties on the video leg of a VRS call from viewing the other party during a call.

(53) *Voice carry over (VCO).* A form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use one telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between two VCO users.

(54) *VRS access technology.* Any equipment, software, or other technology issued, leased, or provided by an internet-based TRS provider that can be used to make and receive a VRS call.

(55) *VRS Access Technology Reference Platform.* A software product procured by or on behalf of the Commission that provides VRS functionality, including the ability to make and receive VRS and point-to-point calls, dial-around functionality, and the ability to update user registration location, and against which providers may test their own VRS access technology and platforms for compliance with the Commission's interoperability and portability rules.

(b) For purposes of this subpart, all regulations and requirements applicable to common carriers shall also be applicable to providers of interconnected VoIP service.

[68 FR 50976, Aug. 25, 2003, as amended at 69 FR 53351, Sept. 1, 2004; 72 FR 43559, Aug. 6, 2007; 73 FR 41294, July 18, 2008; 76 FR 24400, May 2, 2011; 76 FR 65969, Oct. 25, 2011; 78 FR 40605, July 5, 2013; 82 FR 7707, Jan. 23, 2017; 82 FR 17761, Apr. 13, 2017; 82 FR 39682, Aug. 22, 2017; 84 FR 8461, Mar. 8, 2019; 84 FR 26369, June 6, 2019; 84 FR 66779, Dec. 5, 2019; 85 FR 1127, Jan. 9, 2020; 85 FR 9390, Feb. 19, 2020; 85 FR 27312, May 8, 2020; 87 FR 75513, Dec. 9, 2022]

§ 64.602 Jurisdiction.

Any violation of this subpart F by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of the Act by a common carrier engaged in interstate communication.

[65 FR 38436, June 21, 2000]

§ 64.603 Provision of services.

(a) Each common carrier providing telephone voice transmission services shall provide, in compliance with the regulations prescribed herein and the emergency calling requirements in part 9, subpart E of this chapter, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Interstate Spanish language relay service shall be provided. Speech-to-speech relay service also shall be provided, except that speech-to-speech relay service need not be provided by IP Relay providers, VRS providers,

captioned telephone relay service providers, and IP CTS providers. In addition, each common carrier providing telephone voice transmission services shall provide access via the 711 dialing code to all relay services as a toll free call. CMRS providers subject to this 711 access requirement are not required to provide 711 dialing code access to TTY users if they provide 711 dialing code access via real-time text communications, in accordance with 47 CFR part 67.

(b) A common carrier shall be considered to be in compliance with this section:

(1) With respect to intrastate telecommunications relay services in any state that does not have a certified program under § 64.606 and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with § 64.604; or

(2) With respect to intrastate telecommunications relay services in any state that has a certified program under § 64.606 for such state, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under § 64.606 for such state.

[82 FR 7707, Jan.23, 2017, as amended at 84 FR 66779, Dec. 5, 2019]

§ 64.604 Mandatory minimum standards.

The standards in this section are applicable December 18, 2000, except as stated in paragraphs (c)(2) and (c)(7) of this section.

(a) *Operational standards*—(1) *Communications assistant (CA).* (i) TRS providers are responsible for requiring that all CAs be sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities.

(ii) CAs must have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications.

(iii) CAs must provide a typing speed of a minimum of 60 words per minute. Technological aids may be used to reach the required typing speed. Providers must give oral-to-type tests of CA speed.

(iv) TRS providers are responsible for requiring that VRS CAs are qualified interpreters. A ''qualified interpreter'' is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(v) CAs answering and placing a TTY-based TRS or VRS call shall stay with the call for a minimum of ten minutes. CAs answering and placing an STS call shall stay with the call for a minimum of twenty minutes. The minimum time period shall begin to run when the CA reaches the called party. The obligation of the CA to stay with the call shall terminate upon the earlier of:

(A) The termination of the call by one of the parties to the call; or

(B) The completion of the minimum time period.

(vi) TRS providers must make best efforts to accommodate a TRS user's requested CA gender when a call is initiated and, if a transfer occurs, at the time the call is transferred to another CA.

(vii) TRS shall transmit conversations between TTY and voice callers in real time.

(viii) STS providers shall offer STS users the option to have their voices muted so that the other party to the call will hear only the CA and will not hear the STS user's voice.

(2) *Confidentiality and conversation content.* (i) Except as authorized by section 705 of the Communications Act, 47 U.S.C. 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for STS CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. STS CAs may retain information from a particular call in order to facilitate the completion of consecutive calls, at the request of the user. The caller may request the STS CA to retain such information, or the CA may ask the caller if he wants the CA to repeat the same information during subsequent calls. The CA may retain the information only

for as long as it takes to complete the subsequent calls.

(ii) CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call. An STS CA may facilitate the call of an STS user with a speech disability so long as the CA does not interfere with the independence of the user, the user maintains control of the conversation, and the user does not object. Appropriate measures must be taken by relay providers to ensure that confidentiality of VRS users is maintained.

(3) *Types of calls.*

(i) Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services, except that the number and duration of calls to or from incarcerated persons may be limited in accordance with a correctional authority's generally applicable policies regarding telephone calling by incarcerated persons.

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call.

(iii) Relay service providers are permitted to decline to complete a call because credit authorization is denied.

(iv) Relay services other than Internet-based TRS shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls:

(A) Text-to-voice and voice-to-text;

(B) One-line VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; and

(C) One-line HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers are not required to provide one-line VCO and one-line HCO. IP Relay providers and VRS providers are not required to provide:

(*1*) VCO-to-TTY and VCO-to-VCO; and

(*2*) HCO-to-TTY and HCO-to-HCO. Captioned telephone service providers and IP CTS providers are not required to provide:

(*i*) Text-to-voice functionality; and

(*ii*) One-line HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO. IP CTS providers are not required to provide one-line VCO.

(vi) TRS providers are required to provide the following features:

(A) Call release functionality (only with respect to the provision of TTY-based relay service);

(B) Speed dialing functionality; and

(C) Three-way calling functionality.

(vii) Voice mail and interactive menus. CAs must alert the TRS user to the presence of a recorded message and interactive menu through a hot key on the CA's terminal. The hot key will send text from the CA to the consumer's TTY indicating that a recording or interactive menu has been encountered. Relay providers shall electronically capture recorded messages and retain them for the length of the call. Relay providers may not impose any charges for additional calls, which must be made by the relay user in order to complete calls involving recorded or interactive messages.

(viii) TRS providers shall provide, as TRS features, answering machine and voice mail retrieval.

(ix) This paragraph (a)(3) does not require that TRS providers serving incarcerated persons allow types of calls or calling features that are not permitted for hearing people incarcerated in the correctional facility being served.

(4) [Reserved]

(5) *STS called numbers.* Relay providers must offer STS users the option to maintain at the relay center a list of names and telephone numbers which the STS user calls. When the STS user requests one of these names, the CA must repeat the name and state the telephone number to the STS user. This information must be transferred to any new STS provider.

(6) *Visual privacy screens/idle calls.* A VRS CA may not enable a visual privacy screen or similar feature during a

VRS call. A VRS CA must disconnect a VRS call if the caller or the called party to a VRS call enables a privacy screen or similar feature for more than five minutes or is otherwise unresponsive or unengaged for more than five minutes, unless the call is a 9–1–1 emergency call or the caller or called party is legitimately placed on hold and is present and waiting for active communications to commence. Prior to disconnecting the call, the CA must announce to both parties the intent to terminate the call and may reverse the decision to disconnect if one of the parties indicates continued engagement with the call.

(7) *International calls.* VRS calls that originate from an international IP address will not be compensated, with the exception of calls made by a U.S. resident who has pre-registered with his or her default provider prior to leaving the country, during specified periods of time while on travel and from specified regions of travel, for which there is an accurate means of verifying the identity and location of such callers. For purposes of this section, an international IP address is defined as one that indicates that the individual initiating the call is located outside the United States.

(b) *Technical standards*—(1) *ASCII and Baudot.* TTY-based relay service shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. Other forms of TRS are not subject to this requirement.

(2) *Speed of answer.* (i) TRS providers shall ensure adequate TRS facility staffing to provide callers with efficient access under projected calling volumes, so that the probability of a busy response due to CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

(ii) TRS facilities shall, except during network failure, answer 85% of all calls within 10 seconds by any method which results in the caller's call immediately being placed, not put in a queue or on hold. The ten seconds begins at the time the call is delivered to the TRS facility's network. A TRS facility shall ensure that adequate network facilities shall be used in conjunction with TRS so that under projected calling volume the probability of a busy response due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

(A) The call is considered delivered when the TRS facility's equipment accepts the call from the local exchange carrier (LEC) and the public switched network actually delivers the call to the TRS facility.

(B) Abandoned calls shall be included in the speed-of-answer calculation.

(C) A TRS provider's compliance with this rule shall be measured on a daily basis.

(D) The system shall be designed to a P.01 standard.

(E) A LEC shall provide the call attempt rates and the rates of calls blocked between the LEC and the TRS facility to relay administrators and TRS providers upon request.

(iii) *Speed of answer requirements for VRS providers.* VRS providers must answer 80% of all VRS calls within 120 seconds, measured on a monthly basis. VRS providers must meet the speed of answer requirements for VRS providers as measured from the time a VRS call reaches facilities operated by the VRS provider to the time when the call is answered by a CA—*i.e.*, not when the call is put on hold, placed in a queue, or connected to an IVR system. Abandoned calls shall be included in the VRS speed of answer calculation.

(3) [Reserved]

(4) *TRS facilities.* (i) TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this Commission need not be provided every day, 24 hours a day, except VRS.

(ii) TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use.

(iii) A VRS provider shall not allow its CAs to handle VRS calls from a home workstation unless so authorized by the Commission.

(iv) A VRS provider leasing or licensing an automatic call distribution (ACD) platform must have a written lease or license agreement. Such lease or license agreement may not include

any revenue sharing agreement or compensation based upon minutes of use. In addition, if any such lease is between two eligible VRS providers, the lessee or licensee must locate the ACD platform on its own premises and must utilize its own employees to manage the ACD platform.

(5) *Technology*. No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of telecommunications to person with disabilities. TRS facilities are permitted to use SS7 technology or any other type of similar technology to enhance the functional equivalency and quality of TRS. TRS facilities that utilize SS7 technology shall be subject to the Calling Party Telephone Number rules set forth at 47 CFR 64.1600 *et seq*.

(6) *Caller ID*. When a TRS facility is able to transmit any calling party identifying information to the public network, the TRS facility must pass through, to the called party, at least one of the following: the number of the TRS facility, 711, or the 10-digit number of the calling party.

(7) *STS 711 Calls*. An STS provider shall, at a minimum, employ the same means of enabling an STS user to connect to a CA when dialing 711 that the provider uses for all other forms of TRS. When a CA directly answers an incoming 711 call, the CA shall transfer the STS user to an STS CA without requiring the STS user to take any additional steps. When an interactive voice response (IVR) system answers an incoming 711 call, the IVR system shall allow for an STS user to connect directly to an STS CA using the same level of prompts as the IVR system uses for all other forms of TRS.

(8) *At-home VRS call handling*—(i) *Limit on minutes handled*. In any calendar month, a VRS provider authorized by the Commission to employ at-home CAs may be compensated for minutes handled from home workstations up to a maximum of the greater of:

(A) Fifty percent (50%) of a VRS provider's total minutes for which compensation is paid in that month; or

(B) Fifty percent (50%) of the provider's average projected monthly conversation minutes for the calendar year, according to the projections most recently filed with the TRS Fund administrator.

(ii) *Personnel safeguards*. A VRS provider shall:

(A) Allow a CA to work at home only if the CA is a qualified interpreter with at least three years of professional interpreting experience, has the experience, skills, and knowledge necessary to effectively interpret VRS calls without in-person supervision, has learned the provider's protocols for at-home call handling, and understands and follows the TRS mandatory minimum standards set out in this section; and

(B) Provide at-home CAs equivalent support to that provided to CAs working from call centers, including, where appropriate, the opportunity to team-interpret and consult with supervisors, and ensure that supervisors are readily available to resolve problems that may arise during a relay call.

(iii) *Technical and environmental safeguards*. A VRS provider shall ensure that each home workstation enables the provision of confidential and uninterrupted service to the same extent as the provider's call centers and is seamlessly integrated into the provider's call routing, distribution, tracking, and support systems. Each home workstation shall:

(A) Reside in a separate, secure workspace where access during working hours is restricted solely to the CA;

(B) Allow a CA to use all call-handling technology to the same extent as call-center CAs;

(C) Be capable of supporting VRS in compliance with the applicable mandatory minimum standards set out in this section to the same degree as at call centers;

(D) Be equipped with an effective means to prevent eavesdropping and outside interruptions; and

(E) Be connected to the provider's network over a secure connection to ensure caller privacy.

(iv) *Monitoring and oversight obligations*. A VRS provider shall:

(A) Inspect each home workstation and its home environment to confirm their compliance with paragraph (b)(8)(iii) of this section before activating the workstation for use;

(B) Assign a unique workstation identification number to each VRS home workstation;

(C) Equip each home workstation with monitoring technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider's call center and regularly analyze the records and data produced by such monitoring to proactively address possible waste, fraud, and abuse;

(D) Keep all records pertaining to home workstations, except records of the content of interpreted conversations, for a minimum of five years; and

(E) Conduct random and unannounced inspections of at least five percent (5%) of all home workstations, including their home environments, in each 12-month period.

(v) *Commission audits and inspections.* Home workstations and workstation records shall be subject to review, audit, and inspection by the Commission and the TRS Fund administrator and unannounced on-site inspections by the Commission to the same extent as call centers and call center records subject to the rules in this chapter.

(vi) *Monthly reports.* With its monthly requests for compensation, a VRS provider employing at-home CAs shall report the following information to the TRS Fund administrator for each home workstation:

(A) The home workstation identification number and full street address (number, street, city, state, and zip code);

(B) The CA identification number of each individual handling VRS calls from that home workstation; and

(C) The call center identification number, street address, and name of supervisor of the call center responsible for oversight of that workstation.

(c) *Functional standards*—(1) *Consumer complaint logs.* (i) States and interstate providers must maintain a log of consumer complaints including all complaints about TRS in the state, whether filed with the TRS provider or the State, and must retain the log until the next application for certification is granted. The log shall include, at a minimum, the date the complaint was filed, the nature of the complaint, the date of resolution, and an explanation of the resolution.

(ii) Beginning July 1, 2002, states and TRS providers shall submit summaries of logs indicating the number of complaints received for the 12-month period ending May 31 to the Commission by July 1 of each year. Summaries of logs submitted to the Commission on July 1, 2001 shall indicate the number of complaints received from the date of OMB approval through May 31, 2001.

(2) *Contact persons.* Beginning on June 30, 2000, State TRS Programs, interstate TRS providers, and TRS providers that have state contracts must submit to the Commission a contact person and/or office for TRS consumer information and complaints about a certified State TRS Program's provision of intrastate TRS, or, as appropriate, about the TRS provider's service. This submission must include, at a minimum, the following:

(i) The name and address of the office that receives complaints, grievances, inquiries, and suggestions;

(ii) Voice and TTY telephone numbers, fax number, e-mail address, and web address; and

(iii) The physical address to which correspondence should be sent.

(3) *Public access to information.* Carriers, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. Efforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population. In addition, each common carrier providing telephone voice transmission services shall conduct, not later than October 1, 2001, ongoing education and outreach programs that publicize the availability of 711 access to TRS in a manner reasonably designed to reach the largest number of consumers possible.

(4) *Rates.* TRS users shall pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the

time of day, and the distance from the point of origination to the point of termination.

(5) *Jurisdictional separation of costs*—(i) *General.* Where appropriate, costs of providing TRS shall be separated in accordance with the jurisdictional separation procedures and standards set forth in the Commission's regulations adopted pursuant to section 410 of the Communications Act of 1934, as amended.

(ii) *Cost recovery.* Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. Except as noted in this paragraph (c)(5)(ii), costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under §64.606, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. Costs caused by the provision of interstate and intrastate IP CTS, and (beginning July 1, 2023) for VRS and IP Relay, if not provided through a certified state program under §64.606, shall be recovered from all subscribers for every interstate and intrastate service, using a shared-funding cost recovery mechanism.

(iii) *Telecommunications Relay Services Fund.* Effective July 26, 1993, an Interstate Cost Recovery Plan, hereinafter referred to as the TRS Fund, shall be administered by an entity selected by the Commission (administrator). The initial administrator, for an interim period, will be the National Exchange Carrier Association, Inc.

(A) *Contributions.* (*1*) Every carrier providing interstate or intrastate telecommunications services (including interconnected VoIP service providers pursuant to §64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund, as described in this paragraph (c)(5)(iii)(A):

(*i*) For the support of TRS other than IP CTS, VRS, and IP Relay, on the basis of interstate end-user revenues; and

(*ii*) For the support of IP CTS, and (beginning July 1, 2023) for VRS and IP Relay, on the basis of interstate and intrastate end-user revenues.

(*2*) Contributions shall be made by all carriers who provide interstate or intrastate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international, and resale services.

(B) *Contribution computations.* Contributors' contributions to the TRS fund shall be the product of their subject revenues for the prior calendar year and the applicable contribution factors determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to the contributors' revenues subject to contribution. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future years' contributions. Each subject contributor that has revenues subject to contribution must contribute at least $25 per year. Contributors whose annual contributions total less than $1,200 must pay the entire contribution at the beginning of the contribution period. Contributors whose contributions total $1,200 or more may divide their contributions into equal monthly payments. Contributors shall complete and submit, and contributions shall be based on, a ''Telecommunications Reporting Worksheet'' (as published by the Commission in the FEDERAL REGISTER). The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be

subject to the provisions of section 220 of the Communications Act of 1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions. The Chief of the Consumer and Governmental Affairs Bureau may waive, reduce, modify or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the TRS Fund.

(C) *Registration Requirements for Providers of Non-Interconnected VoIP Service—(1)Applicability.* A non-interconnected VoIP service provider that will provide interstate service that generates interstate end-user revenue that is subject to contribution to the Telecommunications Relay Service Fund shall file the registration information described in paragraph (c)(5)(iii)(C)(*2*) of this section in accordance with the procedures described in paragraphs (c)(5)(iii)(C)(*3*) and (c)(5)(iii)(C)(*4*) of this section. Any non-interconnected VoIP service provider already providing interstate service that generates interstate end-user revenue that is subject to contribution to the Telecommunications Relay Service Fund on the effective date of these rules shall submit the relevant portion of its FCC Form 499–A in accordance with paragraphs (c)(5)(iii)(C)(*2*) and (*3*) of this section.

(*2*) *Information required for purposes of TRS Fund contributions.* A non-interconnected VoIP service provider that is subject to the registration requirement pursuant to paragraph (c)(5)(iii)(C)(*1*) of this section shall provide the following information:

(*i*) The provider's business name(s) and primary address;

(*ii*) The names and business addresses of the provider's chief executive officer, chairperson, and president, or, in the event that a provider does not have such executives, three similarly senior-level officials of the provider;

(*iii*) The provider's regulatory contact and/or designated agent;

(*iv*) All names that the provider has used in the past; and

(*v*) The state(s) in which the provider provides such service.

(*3*) *Submission of registration.* A provider that is subject to the registration requirement pursuant to paragraph (c)(5)(iii)(C)(*1*) of this section shall submit the information described in paragraph (c)(5)(iii)(C)(*2*) of this section in accordance with the Instructions to FCC Form 499–A. FCC Form 499–A must be submitted under oath and penalty of perjury.

(*4*) *Changes in information.* A provider must notify the Commission of any changes to the information provided pursuant to paragraph (c)(5)(iii)(C)(*2*) of this section within no more than one week of the change. Providers may satisfy this requirement by filing the relevant portion of FCC Form 499–A in accordance with the Instructions to such form.

(D) *Data collection and audits.*

(*1*) *Cost and demand data.* TRS providers seeking compensation from the TRS Fund shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested to determine the TRS Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total operating expenses and total TRS investment in general in accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. In annual cost data filings and supplementary information provided to the administrator regarding such cost data, IP CTS providers that contract for the supply of services used in the provision of TRS shall include information about payments under such contracts, classified according to the substantive cost categories specified by the administrator. To the extent that a third party's provision of services covers more than one cost category, the resubmitted cost reports must provide an explanation of how the provider determined or calculated the portion of contractual payments attributable to each cost category. To

the extent that the administrator reasonably deems necessary, providers shall submit additional detail on such contractor expenses, including but not limited to complete copies of such contracts and related correspondence or other records and information relevant to determining the nature of the services provided and the allocation of the costs of such services to cost categories.

(*2*) *Call data required from all TRS providers.* In addition to the data requested by paragraph (c)(5)(iii)(D)(*1*) of this section, TRS providers seeking compensation from the TRS Fund shall submit the following specific data associated with each TRS call for which compensation is sought:

(*i*) The call record ID sequence;

(*ii*) CA ID number;

(*iii*) Session start and end times noted at a minimum to the nearest second;

(*iv*) Conversation start and end times noted at a minimum to the nearest second;

(*v*) Incoming telephone number and IP address (if call originates with an IP-based device) at the time of the call;

(*vi*) Outbound telephone number (if call terminates to a telephone) and IP address (if call terminates to an IP-based device) at the time of call;

(*vii*) Total conversation minutes;

(*viii*) Total session minutes;

(*ix*) The call center (by assigned center ID number) or home workstation (by assigned home workstation identification number) that handled the call; and

(*x*) The URL address through which the call is initiated.

(*3*) *Additional call data required from internet-based Relay Providers.* In addition to the data required by paragraph (c)(5)(iii)(D)(*2*) of this section, internet-based Relay Providers seeking compensation from the Fund shall submit speed of answer compliance data.

(*4*) *Call record and speed of answer data.* Providers submitting call record and speed of answer data in compliance with paragraphs (c)(5)(iii)(D)(*2*) and (*3*) of this section shall:

(*i*) Employ an automated record keeping system to capture such data required pursuant to paragraph (c)(5)(iii)(D)(*2*) of this section for each TRS call for which minutes are submitted to the fund administrator for compensation; and

(*ii*) Submit such data electronically, in a standardized format. For purposes of this subparagraph, an automated record keeping system is a system that captures data in a computerized and electronic format that does not allow human intervention during the call session for either conversation or session time.

(*5*) *Certification.* The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of a TRS provider with first hand knowledge of the accuracy and completeness of the information provided, when submitting a request for compensation from the TRS Fund must, with each such request, certify as follows:

I swear under penalty of perjury that:

(i) I am _____ (name and title)_____, an officer of the above-named reporting entity and that I have examined the foregoing reports and that all requested information has been provided and all statements of fact, as well as all cost and demand data contained in this Relay Services Data Request, are true and accurate; and

(ii) The TRS calls for which compensation is sought were handled in compliance with Section 225 of the Communications Act and the Commission's rules and orders, and are not the result of impermissible financial incentives or payments to generate calls.

(*6*) *Audits.* The Fund administrator and the Commission, including the Office of Inspector General, shall have the authority to examine and verify TRS provider data as necessary to assure the accuracy and integrity of TRS Fund payments. TRS providers must submit to audits annually or at times determined appropriate by the Commission, the fund administrator, or by an entity approved by the Commission for such purpose. A TRS provider that fails to submit to a requested audit, or fails to provide documentation necessary for verification upon reasonable request, will be subject to an automatic suspension of payment until it submits to the requested audit or provides sufficient documentation. In the course of an audit or otherwise upon demand, an IP CTS provider must make available any relevant documentation, including contracts with

entities providing services or equipment directly related to the provision of IP CTS, to the Commission, the TRS Fund administrator, or any person authorized by the Commission or TRS Fund administrator to conduct an audit.

(*7*) *Call data record retention.* Internet-based TRS providers shall retain the data required to be submitted by this section, and all other call detail records, other records that support their claims for payment from the TRS Fund, and records used to substantiate the costs and expense data submitted in the annual relay service data request form, in an electronic format that is easily retrievable, for a minimum of five years.

(E) *Payments to TRS providers.* (*1*) TRS Fund payments shall be distributed to TRS providers based on formulas approved or modified by the Commission. The administrator shall file schedules of payment formulas with the Commission. Such formulas shall be designed to compensate TRS providers for reasonable costs of providing interstate TRS, and shall be subject to Commission approval. Such formulas shall be based on total monthly interstate TRS minutes of use. The formulas should appropriately compensate interstate providers for the provision of TRS, whether intrastate or interstate.

(*2*) TRS minutes of use for purposes of interstate cost recovery under the TRS Fund are defined as the minutes of use for completed interstate TRS calls placed through the TRS center beginning after call set-up and concluding after the last message call unit.

(*3*) In addition to the data required under paragraph (c)(5)(iii)(C) of this section, all TRS providers, including providers who are not interexchange carriers, local exchange carriers, or certified state relay providers, must submit reports of interstate TRS minutes of use to the administrator in order to receive payments.

(*4*) The administrator shall establish procedures to verify payment claims, and may suspend or delay payments to a TRS provider if the TRS provider fails to provide adequate verification of payment upon reasonable request, or if directed by the Commission to do so. The TRS Fund administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in this section, and after disbursements to the administrator for reasonable expenses incurred by it in connection with TRS Fund administration. TRS providers receiving payments shall file a form prescribed by the administrator. The administrator shall fashion a form that is consistent with 47 CFR parts 32 and 36 procedures reasonably tailored to meet the needs of TRS providers.

(*5*) The Commission shall have authority to audit providers and have access to all data, including carrier specific data, collected by the fund administrator. The fund administrator shall have authority to audit TRS providers reporting data to the administrator.

(*6*) The administrator shall not be obligated to pay any request for compensation until it has been established as compensable. A request shall be established as compensable only after the administrator, in consultation with the Commission, or the Commission determines that the provider has met its burden to demonstrate that the claim is compensable under applicable Commission rules and the procedures established by the administrator. Any request for compensation for which payment has been suspended or withheld in accordance with paragraph (c)(5)(iii)(L) of this section shall not be established as compensable until the administrator, in consultation with the Commission, or the Commission determines that the request is compensable in accordance with paragraph (c)(5)(iii)(L)(*4*) of this section.

(F) *Eligibility for payment from the TRS Fund.* (*1*) TRS providers, except Internet-based TRS providers, eligible for receiving payments from the TRS Fund must be:

(*i*) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to § 64.606; or

(*ii*) TRS facilities owned or operated under contract with a common carrier providing interstate services operated pursuant to this section; or

(*iii*) Interstate common carriers offering TRS pursuant to this section.

(*2*) Internet-based TRS providers eligible for receiving payments from the TRS fund must be certified by the Commission pursuant to § 64.606.

(G) Any eligible TRS provider as defined in paragraph (c)(5)(iii)(F) of this section shall notify the administrator of its intent to participate in the TRS Fund thirty (30) days prior to submitting reports of TRS interstate minutes of use in order to receive payment settlements for interstate TRS, and failure to file may exclude the TRS provider from eligibility for the year.

(H) Administrator reporting, monitoring, and filing requirements. The administrator shall perform all filing and reporting functions required in paragraphs (c)(5)(iii)(A) through (c)(5)(iii)(J) of this section. TRS payment formulas and revenue requirements shall be filed with the Commission on May 1 of each year, to be effective the following July 1. The administrator shall report annually to the Commission an itemization of monthly administrative costs which shall consist of all expenses, receipts, and payments associated with the administration of the TRS Fund. The administrator is required to keep the TRS Fund separate from all other funds administered by the administrator, shall file a cost allocation manual (CAM) and shall provide the Commission full access to all data collected pursuant to the administration of the TRS Fund. The administrator shall account for the financial transactions of the TRS Fund in accordance with generally accepted accounting principles for federal agencies and maintain the accounts of the TRS Fund in accordance with the United States Government Standard General Ledger. When the administrator, or any independent auditor hired by the administrator, conducts audits of providers of services under the TRS program or contributors to the TRS Fund, such audits shall be conducted in accordance with generally accepted government auditing standards. In administering the TRS Fund, the administrator shall also comply with all relevant and applicable federal financial management and reporting statutes. The administrator shall establish a non-paid voluntary advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, and TRS providers, which will meet at reasonable intervals (at least semi-annually) in order to monitor TRS cost recovery matters. Each group shall select its own representative to the committee. The administrator's annual report shall include a discussion of the advisory committee deliberations.

(I) *Information filed with the administrator.* The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a provider submitting minutes to the Fund for compensation must, in each instance, certify, under penalty of perjury, that the minutes were handled in compliance with section 225 of the Communications Act of 1934 and the Commission's rules and orders, and are not the result of impermissible financial incentives or payments to generate calls. The CEO, CFO, or other senior executive of a provider submitting cost and demand data to the TRS Fund administrator shall certify under penalty of perjury that such information is true and correct. The administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Consumer and Governmental Affairs Bureau, the TRS Fund administrator may share data obtained from carriers with the administrators of the universal support mechanisms (*see* § 54.701 of this chapter), the North American Numbering Plan administration cost recovery (*see* § 52.16 of this chapter), and the long-term local number portability cost recovery (*see* § 52.32 of this chapter). The TRS Fund administrator shall keep confidential all data obtained from other administrators. The administrator shall not use such data except for purposes of administering the TRS Fund, calculating the regulatory fees of interstate and intrastate common carriers and VoIP service providers, and aggregating such fee payments for submission to the Commission. The Commission shall have

access to all data reported to the administrator, and authority to audit TRS providers. Contributors may make requests for Commission nondisclosure of company-specific revenue information under §0.459 of this chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

(J) [Reserved]

(K) All parties providing services or contributions or receiving payments under this section are subject to the enforcement provisions specified in the Communications Act, the Americans with Disabilities Act, and the Commission's rules.

(L) *Procedures for the suspension/withholding of payment.* (*1*) The Fund administrator will continue the current practice of reviewing monthly requests for compensation of TRS minutes of use within two months after they are filed with the Fund administrator.

(*2*) If the Fund administrator in consultation with the Commission, or the Commission on its own accord, determines that payments for certain minutes should be withheld, a TRS provider will be notified within two months from the date for the request for compensation was filed, as to why its claim for compensation has been withheld in whole or in part. TRS providers then will be given two additional months from the date of notification to provide additional justification for payment of such minutes of use. Such justification should be sufficiently detailed to provide the Fund administrator and the Commission the information needed to evaluate whether the minutes of use in dispute are compensable. If a TRS provider does not respond, or does not respond with sufficiently detailed information within two months after notification that payment for minutes of use is being withheld, payment for the minutes of use in dispute will be denied permanently.

(*3*) If, the TRS provider submits additional justification for payment of the minutes of use in dispute within two months after being notified that its initial justification was insufficient, the Fund administrator or the Commission will review such additional justification documentation, and may ask further questions or conduct further investigation to evaluate whether to pay the TRS provider for the minutes of use in dispute, within eight months after submission of such additional justification.

(*4*) If the provider meets its burden to establish that the minutes in question are compensable under the Commission's rules, the Fund administrator will compensate the provider for such minutes of use. Any payment by the Commission will not preclude any future action by either the Commission or the U.S. Department of Justice to recover past payments (regardless of whether the payment was the subject of withholding) if it is determined at any time that such payment was for minutes billed to the Commission in violation of the Commission's rules or any other civil or criminal law.

(*5*) If the Commission determines that the provider has not met its burden to demonstrate that the minutes of use in dispute are compensable under the Commission's rules, payment will be permanently denied. The Fund administrator or the Commission will notify the provider of this decision within one year of the initial request for payment.

(*6*) If the VRS provider submits a waiver request asserting exigent circumstances affecting one or more call centers that will make it highly improbable that the VRS provider will meet the speed-of-answer standard for call attempts occurring in a period of time identified by beginning and ending dates, the Fund administrator shall not withhold TRS Fund payments for a VRS provider's failure to meet the speed-of-answer standard during the identified period of time while the waiver request is under review by the Commission. In the event that the waiver request is denied, the speed-of-answer requirement is not met, and payment has been made to the provider from the TRS Fund for the identified period of time or a portion thereof, the provider shall return such payment to the TRS Fund for any period of time when the speed-of-answer requirement was not met.

(M) *Whistleblower protections.* Providers shall not take any reprisal in the form of a personnel action against any current or former employee or contractor who discloses to a designated manager of the provider, the Commission, the TRS Fund administrator or to any Federal or state law enforcement entity, any information that the reporting person reasonably believes evidences known or suspected violations of the Communications Act or TRS regulations, or any other activity that the reporting person reasonably believes constitutes waste, fraud, or abuse, or that otherwise could result in the improper billing of minutes of use to the TRS Fund and discloses that information to a designated manager of the provider, the Commission, the TRS Fund administrator or to any Federal or state law enforcement entity. Providers shall provide an accurate and complete description of these TRS whistleblower protections, including the right to notify the FCC's Office of Inspector General or its Enforcement Bureau, to all employees and contractors, in writing. Providers that already disseminate their internal business policies to its employees in writing (*e.g.* in employee handbooks, policies and procedures manuals, or bulletin board postings—either online or in hard copy) must include an accurate and complete description of these TRS whistleblower protections in those written materials.

(N) In addition to the provisions set forth above, VRS providers shall be subject to the following provisions:

(*1*) *Eligibility for reimbursement from the TRS Fund.* (*i*) Only an eligible VRS provider, as defined in paragraph (c)(5)(iii)(F) of this section, may hold itself out to the general public as providing VRS.

(*ii*) VRS service must be offered under the name by which the eligible VRS provider offering such service became certified and in a manner that clearly identifies that provider of the service. Where a TRS provider also utilizes sub-brands to identify its VRS, each sub-brand must clearly identify the eligible VRS provider. Providers must route all VRS calls through a single URL address used for each name or sub-brand used.

(*iii*) An eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services or call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is an eligible provider.

(*iv*) To the extent that an eligible VRS provider contracts with or otherwise authorizes a third party to provide any other services or functions related to the provision of VRS other than interpretation services or call center functions, that third party must not hold itself out as a provider of VRS, and must clearly identify the eligible VRS provider to the public. To the extent an eligible VRS provider contracts with or authorizes a third party to provide any services or functions related to marketing or outreach, and such services utilize VRS, those VRS minutes are not compensable on a per minute basis from the TRS fund.

(*v*) All third-party contracts or agreements entered into by an eligible provider must be in writing. Copies of such agreements shall be made available to the Commission and to the TRS Fund administrator upon request.

(*2*) *Call center reports.* VRS providers shall file a written report with the Commission and the TRS Fund administrator, on April 1st and October 1st of each year for each call center that handles VRS calls that the provider owns or controls, including centers located outside of the United States, that includes:

(*i*) The complete street address of the center;

(*ii*) The number of individual CAs and CA managers; and

(*iii*) The name and contact information (phone number and e-mail address) of the manager(s) at the center. VRS providers shall also file written notification with the Commission and the TRS Fund administrator of any change in a center's location, including the opening, closing, or relocation of any center, at least 30 days prior to any such change.

(*3*) *Compensation of CAs.* VRS providers may not compensate, give a preferential work schedule or otherwise benefit a CA in any manner that

is based upon the number of VRS minutes or calls that the CA relays, either individually or as part of a group.

(*4*) *Remote training session calls.* VRS calls to a remote training session or a comparable activity will not be compensable from the TRS Fund when the provider submitting minutes for such a call has been involved, in any manner, with such a training session. Such prohibited involvement includes training programs or comparable activities in which the provider or any affiliate or related party thereto, including but not limited to its subcontractors, partners, employees or sponsoring organizations or entities, has any role in arranging, scheduling, sponsoring, hosting, conducting or promoting such programs or activities.

(6) *Complaints*—(i) *Referral of complaint.* If a complaint to the Commission alleges a violation of this subpart with respect to intrastate TRS within a state and certification of the program of such state under § 64.606 is in effect, the Commission shall refer such complaint to such state expeditiously.

(ii) Intrastate complaints shall be resolved by the state within 180 days after the complaint is first filed with a state entity, regardless of whether it is filed with the state relay administrator, a state PUC, the relay provider, or with any other state entity.

(iii) *Jurisdiction of Commission.* After referring a complaint to a state entity under paragraph (c)(6)(i) of this section, or if a complaint is filed directly with a state entity, the Commission shall exercise jurisdiction over such complaint only if:

(A) Final action under such state program has not been taken within:

(*1*) 180 days after the complaint is filed with such state entity; or

(*2*) A shorter period as prescribed by the regulations of such state; or

(B) The Commission determines that such state program is no longer qualified for certification under § 64.606.

(iv) The Commission shall resolve within 180 days after the complaint is filed with the Commission any interstate TRS complaint alleging a violation of section 225 of the Act or any complaint involving intrastate relay services in states without a certified program. The Commission shall resolve intrastate complaints over which it exercises jurisdiction under paragraph (c)(6)(iii) of this section within 180 days.

(v) *Complaint procedures.* Complaints against TRS providers for alleged violations of this subpart may be either informal or formal.

(A) *Informal complaints*—(*1*) *Form.* An informal complaint may be transmitted to the Consumer & Governmental Affairs Bureau by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate a complainant's hearing or speech disability.

(*2*) *Content.* An informal complaint shall include the name and address of the complainant; the name and address of the TRS provider against whom the complaint is made; a statement of facts supporting the complainant's allegation that the TRS provided it has violated or is violating section 225 of the Act and/or requirements under the Commission's rules; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the defendant TRS provider (such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate the complainant's hearing or speech disability).

(*3*) *Service; designation of agents.* The Commission shall promptly forward any complaint meeting the requirements of this subsection to the TRS provider named in the complaint. Such TRS provider shall be called upon to satisfy or answer the complaint within the time specified by the Commission. Every TRS provider shall file with the Commission a statement designating an agent or agents whose principal responsibility will be to receive all complaints, inquiries, orders, decisions, and notices and other pronouncements forwarded by the Commission. Such designation shall include a name or department designation, business address, telephone number (voice and TTY), facsimile number and, if available, internet e-mail address.

(B) *Review and disposition of informal complaints.* (*1*) Where it appears from the TRS provider's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and defendant in the manner requested by the complainant (e.g., letter, facsmile transmission, telephone (voice/TRS/TTY) or Internet e-mail.

(*2*) A complainant unsatisfied with the defendant's response to the informal complaint and the staff's decision to terminate action on the informal complaint may file a formal complaint with the Commission pursuant to paragraph (c)(6)(v)(C) of this section.

(C) *Formal complaints.* A formal complaint shall be in writing, addressed to the Federal Communications Commission, Enforcement Bureau, Telecommunications Consumer Division, Washington, DC 20554 and shall contain:

(*1*) The name and address of the complainant,

(*2*) The name and address of the defendant against whom the complaint is made,

(*3*) A complete statement of the facts, including supporting data, where available, showing that such defendant did or omitted to do anything in contravention of this subpart, and

(*4*) The relief sought.

(D) *Amended complaints.* An amended complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action may be filed with the Commission.

(E) *Number of copies.* An original and two copies of all pleadings shall be filed.

(F) *Service.* (*1*) Except where a complaint is referred to a state pursuant to § 64.604(c)(6)(i), or where a complaint is filed directly with a state entity, the Commission will serve on the named party a copy of any complaint or amended complaint filed with it, together with a notice of the filing of the complaint. Such notice shall call upon the defendant to satisfy or answer the complaint in writing within the time specified in said notice of complaint.

(*2*) All subsequent pleadings and briefs shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of § 1.47 of this chapter. Proof of such service shall also be made in accordance with the requirements of said section.

(G) *Answers to complaints and amended complaints.* Any party upon whom a copy of a complaint or amended complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense and shall respond specifically to all material allegations of the complaint. In cases involving allegations of harm, the answer shall indicate what action has been taken or is proposed to be taken to stop the occurrence of such harm. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

(H) *Replies to answers or amended answers.* Within 10 days after service of an answer or an amended answer, a complainant may file and serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matter. Failure to reply will not be deemed an admission of any allegation contained in such answer or amended answer.

(I) *Defective pleadings.* Any pleading filed in a complaint proceeding that is not in substantial conformity with the requirements of the applicable rules in this subpart may be dismissed.

(7) *Treatment of TRS customer information.* Beginning on July 21, 2000, all future contracts between the TRS administrator and the TRS vendor shall provide for the transfer of TRS customer profile data from the outgoing TRS vendor to the incoming TRS vendor. Such data must be disclosed in usable form at least 60 days prior to the provider's last day of service provision. Such data may not be used for any purpose other than to connect the TRS user with the called parties desired by that TRS user. Such information shall not be sold, distributed, shared or revealed in any other way by the relay center or its employees, unless compelled to do so by lawful order.

(8) *Incentives for use of IP CTS and VRS.* (i) An IP CTS provider shall not offer or provide to any person or entity that registers to use IP CTS any form of direct or indirect incentives, financial or otherwise, to register for or use IP CTS.

(ii) An IP CTS provider shall not offer or provide to a hearing health professional any direct or indirect incentives, financial or otherwise, that are tied to a consumer's decision to register for or use IP CTS. Where an IP CTS provider offers or provides IP CTS equipment, directly or indirectly, to a hearing health professional, and such professional makes or has the opportunity to make a profit on the sale of the equipment to consumers, such IP CTS provider shall be deemed to be offering or providing a form of incentive tied to a consumer's decision to register for or use IP CTS.

(iii) Joint marketing arrangements between IP CTS providers and hearing health professionals shall be prohibited.

(iv) For the purpose of this paragraph (c)(8), a hearing health professional is any medical or non-medical professional who advises consumers with regard to hearing disabilities.

(v) A VRS provider shall not offer or provide to any person or entity any form of direct or indirect incentives, financial or otherwise, for the purpose of encouraging individuals to register for or use the VRS provider's service.

(vi) Any IP CTS or VRS provider that does not comply with this paragraph (c)(8) shall be ineligible for compensation for such service from the TRS Fund.

(9) [Reserved]

(10) *IP CTS settings.* Each IP CTS provider shall ensure that, for each IP CTS device it distributes, directly or indirectly:

(i) The device includes a button, key, icon, or other comparable feature that is easily operable and requires only one step for the consumer to turn on captioning; and

(ii) On or after December 8, 2018, any volume control or other amplification feature can be adjusted separately and independently of the caption feature.

(11)(i)[Reserved]

(ii) No person shall use IP CTS equipment or software with the captioning on, unless:

(A) Such person is registered to use IP CTS pursuant to paragraph (c)(9) of this section; or

(B) Such person was an existing IP CTS user as of March 7, 2013, and either paragraph (c)(9)(xi) of this section is not yet in effect or the registration deadline in paragraph (c)(9)(xi) of this section has not yet passed.

(iii) IP CTS providers shall ensure that any newly distributed IP CTS equipment has a label on its face in a conspicuous location with the following language in a clearly legible font: ''FEDERAL LAW PROHIBITS ANYONE BUT REGISTERED USERS WITH HEARING LOSS FROM USING THIS DEVICE WITH THE CAPTIONS ON.'' For IP CTS equipment already distributed to consumers by any IP CTS provider as of July 11, 2014, such provider shall, no later than August 11, 2014, distribute to consumers equipment labels with the same language as mandated by this paragraph for newly distributed equipment, along with clear and specific instructions directing the consumer to attach such labels to the face of their IP CTS equipment in a conspicuous location. For software applications on mobile phones, laptops, tablets, computers or other similar devices, IP CTS providers shall ensure that, each time the consumer logs into the application, the notification language required by this paragraph appears in a conspicuous location on the device screen immediately after log-in.

(iv) IP CTS providers shall maintain, with each consumer's registration records, records describing any IP CTS equipment provided, directly or indirectly, to such consumer, stating the amount paid for such equipment, and stating whether the label required by paragraph (c)(11)(iii) of this section was affixed to such equipment prior to its provision to the consumer. For consumers to whom IP CTS equipment was provided directly or indirectly prior to the effective date of this paragraph (c)(11), such records shall state whether and when the label required by paragraph (c)(11)(iii) of this section was distributed to such consumer. Such records shall be maintained for a minimum period of five years after the consumer ceases to obtain service from the provider.

(v) IP CTS providers shall ensure that their informational materials and websites used to market, advertise, educate, or otherwise inform consumers and professionals about IP CTS include the following language in a prominent location in a clearly legible font: ''FEDERAL LAW PROHIBITS ANYONE BUT REGISTERED USERS WITH HEARING LOSS FROM USING INTERNET PROTOCOL (IP) CAPTIONED TELEPHONES WITH THE CAPTIONS TURNED ON. IP Captioned Telephone Service may use a live operator. The operator generates captions of what the other party to the call says. These captions are then sent to your phone. There is a cost for each minute of captions generated, paid from a federally administered fund.'' For IP CTS provider websites, the language shall be included on the website's home page, each page that provides consumer information about IP CTS, and each page that provides information on how to order IP CTS or IP CTS equipment. IP CTS providers that do not make any use of live CAs to generate captions may shorten the notice to leave out the second, third, and fourth sentences.

(12) *Discrimination and preferences.* A VRS provider shall not:

(i) Directly or indirectly, by any means or device, engage in any unjust or unreasonable discrimination related to practices, facilities, or services for or in connection with like relay service,

(ii) Engage in or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or

(iii) Subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

(13) *Unauthorized and unnecessary use of VRS or IP CTS.* (i) A VRS or IP CTS provider shall not engage in any practice that the provider knows or has reason to know will cause or encourage:

(A) False or unverified claims for TRS Fund compensation;

(B) Unauthorized use of VRS or IP CTS;

(C) The making of VRS or IP CTS calls that would not otherwise be made; or

(D) The use of VRS or IP CTS by persons who do not need the service in order to communicate in a functionally equivalent manner.

(ii) A VRS or IP CTS provider shall not seek payment from the TRS Fund for any minutes of service it knows or has reason to know are resulting from the practices listed in paragraph (c)(13)(i) of this section or from the use of IP CTS by an individual who does not need captions to communicate in a functionally equivalent manner.

(iii) Any VRS or IP CTS provider that becomes aware of any practices listed in paragraphs (c)(13)(i) or (ii) of this section being or having been committed by any person shall, as soon as practicable, report such practices to the Commission or the TRS Fund administrator.

(iv) An IP CTS provider may complete and request compensation for IP CTS calls to or from unregistered users at a temporary, public IP CTS device set up in an emergency shelter. The IP CTS provider shall notify the TRS Fund administrator of the dates of activation and termination for such device.

(14) *TRS calls requiring the use of multiple CAs.* The following types of calls that require multiple CAs for their handling are compensable from the TRS Fund:

(i) VCO-to-VCO calls between multiple captioned telephone relay service users, multiple IP CTS users, or captioned telephone relay service users and IP CTS users;

(ii) Calls between captioned telephone relay service or IP CTS users and TTY service users; and

(iii) Calls between captioned telephone relay service or IP CTS users and VRS users.

(d) *Other standards.* The applicable requirements of § 9.14 of this chapter and §§ 64.611, 64.615, 64.621, 64.631, 64.632, 64.5105, 64.5107, 64.5108, 64.5109, and 64.5110 are to be considered mandatory minimum standards.

[65 FR 38436, June 21, 2000]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 64.604, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

§ 64.605 [Reserved]

§ 64.606 Internet-based TRS provider and TRS program certification.

(a) *Documentation*—(1) *Certified state program.* Any state, through its office of the governor or other delegated executive office empowered to provide TRS, desiring to establish a state program under this section shall submit documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer and Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned ''TRS State Certification Application.'' All documentation shall be submitted in narrative form, shall clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. The Commission shall give public notice of state applications for certification.

(2) *Internet-based TRS provider.* Any entity desiring to provide Internet-based TRS and to receive compensation from the Interstate TRS Fund, shall submit documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer and Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned ''Internet-based TRS Certification Application.'' The documentation shall include, in narrative form:

(i) A description of the forms of Internet-based TRS to be provided (*i.e.*, VRS, IP Relay, and/or IP captioned telephone relay service);

(ii) A detailed description of how the applicant will meet all non-waived mandatory minimum standards applicable to each form of TRS offered, including documentary and other evidence, and in the case of VRS, such documentary and other evidence shall demonstrate that the applicant leases, licenses or has acquired its own facilities and operates such facilities associated with TRS call centers and employs communications assistants, on a full or part-time basis, to staff such call centers at the date of the application. Such evidence shall include, but not be limited to:

(A) In the case of VRS applicants or providers,

(*1*) Operating five or fewer call centers within the United States, a copy of each deed or lease for each call center operated by the applicant within the United States;

(*2*) Operating more than five call centers within the United States, a copy of each deed or lease for a representative sampling (taking into account size (by number of communications assistants) and location) of five call centers operated by the applicant within the United States, together with a list of all other call centers that they operate that includes the information required under § 64.604(c)(5)(iii)(N)(*2*);

(*3*) Operating call centers outside of the United States, a copy of each deed or lease for each call center operated by the applicant outside of the United States;

(*4*) A description of the technology and equipment used to support their call center functions—including, but not limited to, automatic call distribution, routing, call setup, mapping, call features, billing for compensation from the TRS Fund, and registration—and for each core function of each call center for which the applicant must provide a copy of technology and equipment proofs of purchase, leases or license agreements in accordance with

paragraphs (a)(2)(ii)(A)(*5*) through (*7*) of this section, a statement whether such technology and equipment is owned, leased or licensed (and from whom if leased or licensed);

(*5*) Operating five or fewer call centers within the United States, a copy of each proof of purchase, lease or license agreement for all technology and equipment used to support their call center functions for each call center operated by the applicant within the United States;

(*6*) Operating more than five call centers within the United States, a copy of each proof of purchase, lease or license agreement for technology and equipment used to support their call center functions for a representative sampling (taking into account size (by number of communications assistants) and location) of five call centers operated by the applicant within the United States; a copy of each proof of purchase, lease or license agreement for technology and equipment used to support their call center functions for all call centers operated by the applicant within the United States must be retained by the applicant for three years from the date of the application, and submitted to the Commission upon request;

(*7*) Operating call centers outside of the United States, a copy of each proof of purchase, lease or license agreement for all technology and equipment used to support their call center functions for each call center operated by the applicant outside of the United States; and

(*8*) A complete copy of each lease or license agreement for automatic call distribution.

(B) For all applicants, a list of individuals or entities that hold at least a 10 percent equity interest in the applicant, have the power to vote 10 percent or more of the securities of the applicant, or exercise de jure or de facto control over the applicant, a description of the applicant's organizational structure, and the names of its executives, officers, members of its board of directors, general partners (in the case of a partnership), and managing members (in the case of a limited liability company);

(C) For all applicants, a list of the number of applicant's full-time and part-time employees involved in TRS operations, including and divided by the following positions: executives and officers; video phone installers (in the case of VRS), communications assistants, and persons involved in marketing and sponsorship activities;

(D) For all applicants, copies of employment agreements for all of the provider's employees directly involved in TRS operations, executives, and communications assistants, and a list of names of employees directly involved in TRS operations, need not be submitted with the application, but must be retained by the applicant for five years from the date of application, and submitted to the Commission upon request; and

(E) For all applicants, a list of all sponsorship arrangements relating to Internet-based TRS, including on that list a description of any associated written agreements; copies of all such arrangements and agreements must be retained by the applicant for three years from the date of the application, and submitted to the Commission upon request;

(F) In the case of applicants to provide IP CTS or IP CTS providers, a description of measures taken by such applicants or providers to ensure that they do not and will not request or collect payment from the TRS Fund for service to consumers who do not satisfy the registration and certification requirements in § 64.604(c)(9), and an explanation of how these measures provide such assurance.

(iii) A description of the provider's complaint procedures; and

(iv) A statement that the provider will file annual compliance reports demonstrating continued compliance with these rules.

(v) The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an applicant for Internet-based TRS certification under this section with first hand knowledge of the accuracy and completeness of the information provided, when submitting an application for certification under paragraph (a)(2) of this section, must certify as follows: I swear under penalty of perjury that I am _____(name and title), _____an officer of the above-named applicant, and

that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.

(3) *Assessment of internet-based TRS provider certification application.* In order to assess the merits of a certification application submitted by an Internet-based TRS provider, the Commission may conduct one or more on-site visits of the applicant's premises, to which the applicant must consent.

(4) *At-home VRS call handling.* An applicant for initial VRS certification that desires to provide at-home VRS call handling shall include a detailed plan describing how the VRS provider will ensure compliance with the requirements of § 64.604(b)(8).

(b)(1) *Requirements for state certification.* After review of state documentation, the Commission shall certify, by letter, or order, the state program if the Commission determines that the state certification documentation:

(i) Establishes that the state program meets or exceeds all operational, technical, and functional minimum standards contained in § 64.604;

(ii) Establishes that the state program makes available adequate procedures and remedies for enforcing the requirements of the state program, including that it makes available to TRS users informational materials on state and Commission complaint procedures sufficient for users to know the proper procedures for filing complaints; and

(iii) Where a state program exceeds the mandatory minimum standards contained in § 64.604, the state establishes that its program in no way conflicts with federal law.

(2) *Requirements for Internet-based TRS Provider FCC certification.* After review of certification documentation, the Commission shall certify, by Public Notice, that the Internet-based TRS provider is eligible for compensation from the Interstate TRS Fund if the Commission determines that the certification documentation:

(i) Establishes that the provision of Internet-based TRS will meet or exceed all non-waived operational, technical, and functional minimum standards contained in § 64.604;

(ii) Establishes that the Internet-based TRS provider makes available adequate procedures and remedies for ensuring compliance with the requirements of this section and the mandatory minimum standards contained in § 64.604, including that it makes available for TRS users informational materials on complaint procedures sufficient for users to know the proper procedures for filing complaints.

(c)(1) *State certification period.* State certification shall remain in effect for five years. One year prior to expiration of certification, a state may apply for renewal of its certification by filing documentation as prescribed by paragraphs (a) and (b) of this section.

(2) *Internet-based TRS Provider FCC certification period.* Certification granted under this section shall remain in effect for five years. An Internet-based TRS provider applying for renewal of its certification must file documentation with the Commission containing the information described in paragraph (a)(2) of this section at least 90 days prior to expiration of its certification.

(d) *Method of funding.* Except as provided in § 64.604, the Commission shall not refuse to certify a state program based solely on the method such state will implement for funding intrastate TRS, but funding mechanisms, if labeled, shall be labeled in a manner that promote national understanding of TRS and do not offend the public.

(e)(1) *Suspension or revocation of state certification.* The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a state whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of TRS. The Commission may, on its own motion, require a certified state program to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a state program may not be in compliance with the minimum standards.

(2) *Suspension or revocation of Internet-based TRS Provider FCC certification.* The Commission may suspend or revoke the certification of an Internet-based TRS provider if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. The Commission may, on its own motion, require a certified Internet-based TRS provider to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a certified Internet-based TRS provider may not be in compliance with the minimum standards.

(f) *Notification of substantive change.* (1) States must notify the Commission of substantive changes in their TRS programs within 60 days of when they occur, and must certify that the state TRS program continues to meet federal minimum standards after implementing the substantive change.

(2) VRS and IP Relay providers certified under this section must notify the Commission of substantive changes in their TRS programs, services, and features within 60 days of when such changes occur, and must certify that the interstate TRS provider continues to meet Federal minimum standards after implementing the substantive change. Substantive changes shall include, but not be limited to:

(i) The use of new equipment or technologies to facilitate the manner in which relay services are provided;

(ii) Providing services from a new facility not previously identified to the Commission or the Fund administrator; and

(iii) Discontinuation of service from any facility.

(g) Internet-based TRS providers certified under this section shall file with the Commission, on an annual basis, a report demonstrating that they are in compliance with § 64.604.

(1) Such reports must update the information required in paragraph (a)(2) of this section and include updated documentation and a summary of the updates, or certify that there are no changes to the information and documentation submitted with the application for certification, application for renewal of certification, or the most recent annual report, as applicable.

(2) The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an Internet-based TRS provider under this section with first hand knowledge of the accuracy and completeness of the information provided, when submitting an annual report under paragraph (g) of this section, must, with each such submission, certify as follows:

> I swear under penalty of perjury that I am _____ (name and title), an officer of the above-named reporting entity, and that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.

(3) Each VRS provider shall include within its annual report a compliance plan describing the provider's policies, procedures, and practices for complying with the requirements of § 64.604(c)(13) of this subpart. Such compliance plan shall include, at a minimum:

(i) Identification of any officer(s) or managerial employee(s) responsible for ensuring compliance with § 64.604(c)(13) of this subpart;

(ii) A description of any compliance training provided to the provider's officers, employees, and contractors;

(iii) Identification of any telephone numbers, Web site addresses, or other mechanisms available to employees for reporting abuses;

(iv) A description of any internal audit processes used to ensure the accuracy and completeness of minutes submitted to the TRS Fund administrator; and

(v) A description of all policies and practices that the provider is following to prevent waste, fraud, and abuse of the TRS Fund. A provider that fails to file a compliance plan shall not be entitled to compensation for the provision of VRS during the period of noncompliance.

(4) If, at any time, the Commission determines that a VRS provider's compliance plan currently on file is inadequate to prevent waste, fraud, and

abuse of the TRS Fund, the Commission shall so notify the provider, shall explain the reasons the plan is inadequate, and shall direct the provider to correct the identified defects and submit an amended compliance plan reflecting such correction within a specified time period not to exceed 60 days. A provider that fails to comply with such directive shall not be entitled to compensation for the provision of VRS during the period of noncompliance. A submitted compliance plan shall not be prima facie evidence of the plan's adequacy; nor shall it be evidence that the provider has fulfilled its obligations under § 64.604(c)(13) of this subpart.

(5) If a VRS provider is authorized to provide at-home call handling, its annual compliance report shall include the following information:

(i) The total number of CAs handling VRS calls from home workstations over the preceding year;

(ii) The number of 911 calls handled by the provider's home workstations;

(iii) The total number of complaints, if any, submitted to the provider regarding its at-home call handling program or calls handled by at-home CAs; and

(iv) A description of any substantive changes in the VRS provider's currently effective at-home call-handling compliance plan.

(h) *Unauthorized service interruptions.* (1) Each certified VRS provider must provide Internet-based TRS without unauthorized voluntary service interruptions.

(2) A VRS provider seeking to voluntarily interrupt service for a period of 30 minutes or more in duration must first obtain Commission authorization by submitting a written request to the Commission's Consumer and Governmental Affairs Bureau (CGB) at least 60 days prior to any planned service interruption, with detailed information of:

(i) Its justification for such interruption;

(ii) Its plan to notify customers about the impending interruption; and

(iii) Its plans for resuming service, so as to minimize the impact of such disruption on consumers through a smooth transition of temporary service to another provider, and restoration of its service at the completion of such interruption. CGB will grant or deny such a request and provide a response to the provider at least 35 days prior to the proposed interruption, in order to afford an adequate period of notification to consumers. In evaluating such a request, CGB will consider such factors as the length of time of the proposed interruption, the reason for such interruption, the frequency with which such requests have been made by the provider in the past, the potential impact of the interruption on consumers, and the provider's plans for a smooth service restoration.

(3) In the event of an unforeseen service interruption due to circumstances beyond an Internet-based TRS service provider's control, or in the event of a VRS provider's voluntary service interruption of less than 30 minutes in duration, the provider must submit a written notification to CGB within two business days of the commencement of the service interruption, with an explanation of when and how the provider has restored service or the provider's plan to do so imminently. In the event the provider has not restored service at the time such report is filed, the provider must submit a second report within two business days of the restoration of service with an explanation of when and how the provider has restored service. The provider also must provide notification of service outages covered by this paragraph to consumers on an accessible Web site, and that notification of service status must be updated in a timely manner.

(4) A VRS provider that fails to obtain prior Commission authorization for a voluntary service interruption or fails to provide written notification after a voluntary service interruption of less than 30 minutes in duration, or an Internet-based TRS provider that fails to provide written notification after the commencement of an unforeseen service interruption due to circumstances beyond the provider's control in accordance with this subsection, may be subject to revocation of certification, suspension of payment from the

TRS Fund, or other enforcement action by the Commission, as appropriate.

[70 FR 76215, Dec. 23, 2005. Redesignated at 73 FR 21259, Apr. 21, 2008; 76 FR 24402, May 2, 2011; 76 FR 47474, 47477, Aug. 5, 2011; 76 FR 67073, Oct. 31, 2011;77 FR 33662, June 7, 2012; 78 FR 40608, July 5, 2013; 78 FR 53694, Aug. 30, 2013; 82 FR 39683, Aug. 22, 2017; 85 FR 27313, May 8, 2020; 86 FR 10846, Feb. 23, 2021]

§ 64.607 Furnishing related customer premises equipment.

(a) Any communications common carrier may provide, under tariff, customer premises equipment (other than hearing aid compatible telephones as defined in part 68 of this chapter, needed by persons with hearing, speech, vision or mobility disabilities. Such equipment may be provided to persons with those disabilities or to associations or institutions who require such equipment regularly to communicate with persons with disabilities. Examples of such equipment include, but are not limited to, artificial larynxes, bone conductor receivers and TTs.

(b) Any carrier which provides telecommunications devices for persons with hearing and/or speech disabilities, whether or not pursuant to tariff, shall respond to any inquiry concerning:

(1) The availability (including general price levels) of TTs using ASCII, Baudot, or both formats; and

(2) The compatibility of any TT with other such devices and computers.

[56 FR 36731, Aug. 1, 1991, as amended at 72 FR 43560, Aug. 6, 2007; 73 FR 21252, Apr. 21, 2008. Redesignated at 73 FR 21259, Apr. 21, 2008]

§ 64.608 Provision of hearing aid compatible telephones by exchange carriers.

In the absence of alternative suppliers in an exchange area, an exchange carrier must provide a hearing aid compatible telephone, as defined in § 68.316 of this chapter, and provide related installation and maintenance services for such telephones on a detariffed basis to any customer with a hearing disability who requests such equipment or services.

[61 FR 42185, Aug. 14, 1996. Redesignated at 73 FR 21259, Apr. 21, 2008]

§ 64.609 Enforcement of related customer premises equipment rules.

Enforcement of §§ 64.607 and 64.608 is delegated to those state public utility or public service commissions which adopt those sections and provide for their enforcement. Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Communications Common Carriers

[56 FR 36731, Aug. 1, 1991. Redesignated and amended at 73 FR 21259, Apr. 21, 2008]

§ 64.610 Establishment of a National Deaf-Blind Equipment Distribution Program.

(a) The National Deaf-Blind Equipment Distribution Program (NDBEDP) is established as a pilot program to distribute specialized customer premises equipment (CPE) used for telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, to low-income individuals who are deaf-blind. The duration of this pilot program will be two years, with a Commission option to extend such program for an additional year.

(b) *Certification to receive funding.* For each state, the Commission will certify a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement for its program's activities from the Interstate Telecommunications Relay Service Fund (TRS Fund). Such entity will have full oversight and responsibility for distributing equipment and providing related services in that state, either directly or through collaboration, partnership, or contract with other individuals or entities in-state or out-of-state, including other NDBEDP certified programs.

(1) Any state with an equipment distribution program (EDP) may have its EDP apply to the Commission for certification as the sole authorized entity for the state to participate in the NDBEDP and receive reimbursement for its activities from the TRS Fund.

(2) Other public programs, including, but not limited to, vocational rehabilitation programs, assistive technology programs, or schools for the deaf, blind

or deaf-blind; or private entities, including but not limited to, organizational affiliates, independent living centers, or private educational facilities, may apply to the Commission for certification as the sole authorized entity for the state to participate in the NDBEDP and receive reimbursement for its activities from the TRS Fund.

(3) The Commission shall review applications and determine whether to grant certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:

(i) Expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind, to ensure that equipment distribution and the provision of related services occurs in a manner that is relevant and useful to consumers who are deaf-blind;

(ii) The ability to communicate effectively with people who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;

(iii) Staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to eligible individuals throughout the state, including those in remote areas;

(iv) Experience with the distribution of specialized CPE, especially to people who are deaf-blind;

(v) Experience in how to train users on how to use the equipment and how to set up the equipment for its effective use; and

(vi) Familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment.

(c) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) *Equipment.* Hardware, software, and applications, whether separate or in combination, mainstream or specialized, needed by an individual who is deaf-blind to achieve access to telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, as these services have been defined by the Communications Act.

(2) *Individual who is deaf-blind.* (i) Any person:

(A) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(B) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(C) For whom the combination of impairments described in clauses (c)(2)(i)(A) and (B) of this section cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation.

(ii) The definition in this paragraph also includes any individual who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives. An applicant's functional abilities with respect to using telecommunications, Internet access, and advanced communications services in various environments shall be considered when determining whether the individual is deaf-blind under clauses (c)(2)(i)(B) and (C) of this section.

(d) *Eligibility criteria* (1) *Verification of disability.* Individuals claiming eligibility under the NDBEDP must provide verification of disability from a professional with direct knowledge of the individual's disability.

(i) Such professionals may include, but are not limited to, community-based service providers, vision or hearing related professionals, vocational rehabilitation counselors, educators, audiologists, speech pathologists, hearing instrument specialists, and medical or health professionals.

(ii) Such professionals must attest, either to the best of their knowledge or under penalty of perjury, that the applicant is an individual who is deaf-blind (as defined in 47 CFR 64.610(b)). Such professionals may also include, in the attestation, information about the individual's functional abilities to use telecommunications, Internet access, and advanced communications services in various settings.

(iii) Existing documentation that a person is deaf-blind, such as an individualized education program (IEP) or a statement from a public or private agency, such as a Social Security determination letter, may serve as verification of disability.

(iv) The verification of disability must include the attesting professional's name, title, and contact information, including address, phone number, and e-mail address.

(2) *Verification of low income status.* An individual claiming eligibility under the NDBEDP must provide verification that he or she has an income that does not exceed 400 percent of the Federal Poverty Guidelines as defined at 42 U.S.C. 9902(2) or that he or she is enrolled in a federal program with a lesser income eligibility requirement, such as the Federal Public Housing Assistance or Section 8; Supplemental Nutrition Assistance Program, formerly known as Food Stamps; Low Income Home Energy Assistance Program; Medicaid; National School Lunch Program's free lunch program; Supplemental Security Income; or Temporary Assistance for Needy Families. The NDBEDP Administrator may identify state or other federal programs with income eligibility thresholds that do not exceed 400 percent of the Federal Poverty Guidelines for determining income eligibility for participation in the NDBEDP. Where an applicant is not already enrolled in a qualifying low-income program, low-income eligibility may be verified by the certified program using appropriate and reasonable means.

(3) *Prohibition against requiring employment.* No program certified under the NDBEDP may impose a requirement for eligibility in this program that an applicant be employed or actively seeking employment.

(4) *Access to communications services.* A program certified under the NDBEDP may impose, as a program eligibility criterion, a requirement that telecommunications, Internet access, or advanced communications services are available for use by the applicant.

(e) *Equipment distribution and related services.* (1) Each program certified under the NDBEDP must:

(i) Distribute specialized CPE and provide related services needed to make telecommunications service, Internet access service, and advanced communications, including interexchange services or advanced telecommunications and information services, accessible to individuals who are deaf-blind;

(ii) Obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind contained in 47 CFR 64.610(c)(1) and the income eligibility requirements contained in 47 CFR 64.610(d)(2);

(iii) When a recipient relocates to another state, permit transfer of the recipient's account and any control of the distributed equipment to the new state's certified program; (iv) Permit transfer of equipment from a prior state, by that state's NDBEDP certified program;

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(v) Prohibit recipients from transferring equipment received under the NDBEDP to another person through sale or otherwise;

(vi) Conduct outreach, in accessible formats, to inform their state residents about the NDBEDP, which may include the development and maintenance of a program Web site;

(vii) Engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse, and submit, as necessary, to audits arranged by the Commission, the Consumer and Governmental Affairs Bureau, the NDBEDP Administrator,

or the TRS Fund Administrator for such purpose;

(viii) Retain all records associated with the distribution of equipment and provision of related services under the NDBEDP for two years following the termination of the pilot program; and

(ix) Comply with the reporting requirements contained in 47 CFR 64.610(g).

(2) Each program certified under the NDBEDP may not:

(i) Impose restrictions on specific brands, models or types of communications technology that recipients may receive to access the communications services covered in this section;

(ii) Disable or otherwise intentionally make it difficult for recipients to use certain capabilities, functions, or features on distributed equipment that are needed to access the communications services covered in this section, or direct manufacturers or vendors of specialized CPE to disable or make it difficult for recipients to use certain capabilities, functions, or features on distributed equipment that are needed to access the communications services covered in this section; or

(iii) Accept any type of financial arrangement from equipment vendors that could incentivize the purchase of particular equipment.

(f) *Payments to NDBEDP certified programs.* (1) Programs certified under the NDBEDP shall be reimbursed for the cost of equipment that has been distributed to eligible individuals and authorized related services, up to the state's funding allotment under this program as determined by the Commission or any entity authorized to act for the Commission on delegated authority.

(2) Within 30 days after the end of each six-month period of the Fund Year, each program certified under the NDBEDP pilot must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:

(i) Equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing, upgrading, and replacing equipment distributed to consumers;

(ii) Individual needs assessments;

(iii) Installation of equipment and individualized consumer training;

(iv) Maintenance of an inventory of equipment that can be loaned to the consumer during periods of equipment repair;

(v) Outreach efforts to inform state residents about the NDBEDP; and

(vi) Administration of the program, but not to exceed 15 percent of the total reimbursable costs for the distribution of equipment and related services permitted under the NDBEDP.

(3) With each request for payment, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a manager or director, with first-hand knowledge of the accuracy and completeness of the claim in the request, must certify as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity and that I have examined all cost data associated with equipment and related services for the claims submitted herein, and that all such data are true and an accurate statement of the affairs of the above-named certified program.

(g) *Reporting requirements.* (1) Each program certified under the NDBEDP must submit the following data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months, commencing with the start of the pilot program:

(i) For each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual receiving that equipment;

(ii) For each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual attesting to the disability of the individual who is deaf-blind;

(iii) For each piece of equipment distributed, its name, serial number, brand, function, and cost, the type of communications service with which it is used, and the type of relay service it can access;

(iv) For each piece of equipment distributed, the amount of time, following

any assessment conducted, that the requesting individual waited to receive that equipment;

(v) The cost, time and any other resources allocated to assessing an individual's equipment needs;

(vi) The cost, time and any other resources allocated to installing equipment and training deaf-blind individuals on using equipment;

(vii) The cost, time and any other resources allocated to maintain, repair, cover under warranty, and refurbish equipment;

(viii) The cost, time and any other resources allocated to outreach activities related to the NDBEDP, and the type of outreach efforts undertaken;

(ix) The cost, time and any other resources allocated to upgrading the distributed equipment, along with the nature of such upgrades;

(x) To the extent that the program has denied equipment requests made by their deaf-blind residents, a summary of the number and types of equipment requests denied and reasons for such denials;

(xi) To the extent that the program has received complaints related to the program, a summary of the number and types of such complaints and their resolution; and

(xii) The number of qualified applicants on waiting lists to receive equipment.

(2) With each report, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of the information provided in the report, must certify as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity and that I have examined the foregoing reports and that all requested information has been provided and all statements of fact are true and an accurate statement of the affairs of the above-named certified program.

(h) *Administration of the program.* The Consumer and Governmental Affairs Bureau shall designate a Commission official as the NDBEDP Administrator.

(1) The NDBEDP Administrator will work in collaboration with the TRS Fund Administrator, and be responsible for:

(i) Reviewing program applications received from state EDPs and alternate entities and certifying those that qualify to participate in the program;

(ii) Allocating NDBEDP funding as appropriate and in consultation with the TRS Fund Administrator;

(iii) Reviewing certified program submissions for reimbursement of costs under the NDBEDP, in consultation with the TRS Fund Administrator;

(iv) Working with Commission staff to establish and maintain an NDBEDP Web site, accessible to individuals with disabilities, that includes contact information for certified programs by state and links to their respective Web sites, if any, and overseeing other outreach efforts that may be undertaken by the Commission;

(v) Obtaining, reviewing, and evaluating reported data for the purpose of assessing the pilot program and determining best practices;

(vi) Conferring with stakeholders, jointly or separately, during the course of the pilot program to obtain input and feedback on, among other things, the effectiveness of the pilot program, new technologies, equipment and services that are needed, and suggestions for the permanent program;

(vii) Working with Commission staff to adopt permanent rules for the NDBEDP; and

(viii) Serving as the Commission point of contact for the NDBEDP, including responding to inquiries from certified programs and consumer complaints filed directly with the Commission.

(2) The TRS Fund Administrator, as directed by the NDBEDP Administrator, shall have responsibility for:

(i) Reviewing cost submissions and releasing funds for equipment that has been distributed and authorized related services, including outreach efforts;

(ii) Releasing funds for other authorized purposes, as requested by the Commission or the Consumer and Governmental Affairs Bureau; and

(iii) Collecting data as needed for delivery to the Commission and the NDBEDP Administrator.

(i) *Whistleblower protections.* (1) NDBEDP certified programs shall permit, without reprisal in the form of an adverse personnel action, purchase or contract cancellation or discontinuance, eligibility disqualification, or otherwise, any current or former employee, agent, contractor, manufacturer, vendor, applicant, or recipient, to disclose to a designated official of the certified program, the NDBEDP Administrator, the TRS Fund Administrator, the Commission's Office of Inspector General, or to any federal or state law enforcement entity, any known or suspected violations of the Act or Commission rules, or any other activity that the reporting person reasonably believes to be unlawful, wasteful, fraudulent, or abusive, or that otherwise could result in the improper distribution of equipment, provision of services, or billing to the TRS Fund.

(2) NDBEDP certified programs shall include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their Web sites, and in other appropriate publications.

(j) *Suspension or revocation of certification.* (1) The Commission may suspend or revoke NDBEDP certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted.

(2) In the event of suspension or revocation, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of the NDBEDP for the state whose program has been suspended or revoked.

(3) The Commission may, at its discretion and on its own motion, require a certified program to submit documentation demonstrating ongoing compliance with the Commission's rules if, for example, the Commission receives evidence that a state program may not be in compliance with those rules.

(k) *Expiration of rules.* These rules will expire at the termination of the NDBEDP pilot program.

[76 FR 26647, May 9, 2011; 76 FR 31261, May 31, 2011]

§ 64.611 Internet-based TRS registration.

(a) *Default provider registration.* Every provider of VRS or IP Relay must, no later than December 31, 2008, provide users with the capability to register with that VRS or IP Relay provider as a ''default provider.'' Upon a user's registration, the VRS or IP Relay provider shall:

(1) Either:

(i) Facilitate the user's valid number portability request as set forth in 47 CFR 52.34; or, if the user does not wish to port a number,

(ii) Assign that user a geographically appropriate North American Numbering Plan telephone number; and

(2) Route and deliver all of that user's inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider.

(3) *Certification of eligibility of VRS users.* (i) A VRS provider seeking compensation from the TRS Fund for providing VRS to a particular user registered with that provider must first obtain a written certification from the user, attesting that the user is eligible to use VRS.

(ii) The certification required by paragraph (a)(3)(i) of this section must include the user's attestation that:

(A) The user has a hearing or speech disability; and

(B) The user understands that the cost of VRS calls is paid for by contributions from other telecommunications users to the TRS Fund.

(iii) The certification required by paragraph (a)(3)(i) of this section must be made on a form separate from any other agreement or form, and must include a separate user signature specific to the certification. For the purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature. For the purposes of this rule, an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record

created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

(iv) Each VRS provider shall maintain the confidentiality of any registration and certification information obtained by the provider, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(v) VRS providers must, for existing registered Internet-based TRS users, submit the certification required by paragraph (a)(3)(i) of this section to the TRS User Registration Database within 60 days of notice from the Managing Director that the TRS User Registration Database is ready to accept such information.

(vi) When registering a user that is transferring service from another VRS provider, VRS providers shall obtain and submit a properly executed certification if a query of the TRS User Registration Database shows a properly executed certification has not been filed.

(vii) VRS providers shall require their CAs to terminate any call which does not involve an individual eligible to use VRS due to a hearing or speech disability or, pursuant to the provider's policies, the call does not appear to be a legitimate VRS call, and VRS providers may not seek compensation for such calls from the TRS Fund.

(4) *TRS User Registration Database Information Requirements for VRS.* Each VRS provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered internet-based TRS users: Full name; address; ten-digit telephone number assigned in the TRS numbering directory; last four digits of the social security number or Tribal Identification number, if the registered internet-based TRS user is a member of a Tribal nation and does not have a social security number; date of birth; Registered Location; VRS provider name and dates of service initiation and termination; a digital copy of the user's self-certification of eligibility for VRS and the date obtained by the provider; the date on which the user's identification was verified; and (for existing users only) the date on which the registered internet-based TRS user last placed a point-to-point or relay call.

(i) Each VRS provider must obtain, from each new and existing registered internet-based TRS user, consent to transmit the registered internet-based TRS user's information to the TRS User Registration Database. Prior to obtaining consent, the VRS provider must describe to the registered internet-based TRS user, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in the registered internet-based TRS user being denied service. VRS providers must obtain and keep a record of affirmative acknowledgment by every registered internet-based TRS user of such consent.

(ii) VRS providers must, for existing registered internet-based TRS users, submit the information in paragraph (a)(3) of this section to the TRS User Registration Database within 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information. Calls from or to existing registered internet-based TRS users that have not had their information populated in the TRS User Registration Database within 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information shall not be compensable.

(iii) VRS providers must submit the information in the introductory text of paragraph (a)(4) of this section upon initiation of service for users registered after 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information. VRS providers may provide service to such users for up to two weeks after the user's registration information has been submitted to the TRS User Registration Database pending verification of the user's identity. After the user's identity is verified by

the Database administrator, VRS providers may seek TRS Fund compensation for calls handled during such preverification period of up to two weeks.

(iv) If a VRS user's registration data submitted pursuant to paragraph (a)(4)(iii) of this section is not verified by the TRS User Registration Database administrator within two weeks after submission, the VRS provider shall hold the assigned number for up to 30 days or the pendency of an appeal, whichever is later, pending the outcome of any further efforts to complete verification, before returning the number to inactive status or assigning it to another user. If a VRS user's identity is verified within such 30-day period, or during the pendency of an appeal, whichever is later, the administrator may enter the number into the Database (and the TRS Numbering Directory) as assigned to that user.

(5) *Assignment of iTRS Numbers to Hearing Point-to-Point Video Users.* (i) Before assigning an iTRS telephone number to a hearing individual, a VRS provider shall obtain from such individual, the individual's full name, residential address, date of birth, and a written certification, attesting that the individual:

(A) Is proficient in sign language;

(B) Understands that the iTRS number may be used only for the purpose of point-to-point communication over distances with registered VRS users; and

(C) Understands that such iTRS number may not be used to access VRS.

(ii) Before assigning an iTRS telephone number to a hearing individual, a VRS provider also shall obtain the individual's consent to provide the information required by this paragraph (a)(5) to the TRS User Registration Database. Before obtaining such consent, the VRS provider, using clear, easily understood language, shall describe the specific information to be provided, explain that the information is provided to ensure proper administration of the TRS program and inform the individual that failure to provide consent will result in denial of service. VRS providers shall obtain and keep a record of affirmative acknowledgment of such consent by every hearing point-to-point video user to whom an iTRS number is assigned.

(iii) The certification required by paragraph (a)(5)(i) of this section must be made on a form separate from any other agreement or form, and must include a separate signature specific to the certification. For the purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature. For the purposes of this rule, an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

(iv) Before commencing service to any hearing point-to-point video user to whom a VRS provider assigns an iTRS number on or after the TRS User Registration Database is operational, a VRS provider shall submit to the TRS User Registration Database the information listed in paragraph (a)(5)(i) of this section and the following additional information:

(A) The ten-digit telephone number assigned in the TRS Numbering Directory to the hearing point-to-point user;

(B) The VRS provider's name and the date of service initiation; and

(C) The date on which a ten-digit number was assigned to or removed from a hearing point-to-point user.

(v) For all other hearing point-to-point video users to whom a VRS provider has assigned an iTRS number, the VRS provider shall transmit the information required by paragraph (a)(5)(iv) of this section within 60 days after the TRS User Registration Database is operational.

(vi) Upon the termination of service to any hearing point-to-point video user, a VRS provider shall submit to the TRS User Registration Database the date of termination of service.

(vii) A VRS provider shall maintain the confidentiality of the information about hearing individuals required by this paragraph (a)(5) and may not disclose such information except as required by law or regulation.

(viii) Before commencing service to a hearing point-to-point video user who is transferring point-to-point video service from another VRS provider, a VRS provider shall notify the TRS User Registration Database of such transfer and shall obtain and submit a properly executed certification under paragraph (a)(5)(i) of this section.

(ix) Hearing individuals who are assigned iTRS numbers under this paragraph (a)(5) shall not be deemed registered VRS users. VRS providers shall not be compensated and shall not seek compensation from the TRS Fund for any VRS calls to or from such iTRS numbers.

(6) *Enterprise and public videophones*—(i) *Definition.* For purposes of this section, a default VRS provider for an enterprise or public videophone is the VRS provider that assigns a North American Numbering Plan (NANP) telephone number to such videophone or receives a port of such number.

(ii) *Enterprise and public videophone certification.* (A) *Written certification.* A default VRS provider for an enterprise or public videophone shall obtain a written certification from the individual responsible for the videophone, attesting that the individual understands the functions of the videophone and that the cost of VRS calls made on the videophone is financed by the federally regulated Interstate TRS Fund, and for enterprise videophones, that the organization, business, or agency will make reasonable efforts to ensure that only persons with a hearing or speech disability are permitted to use the phone for VRS.

(B) *Electronic signatures.* The certification required by paragraph (a)(6)(ii)(A) of this section must be made on a form separate from any other agreement or form, and must include a separate signature specific to the certification. For the purposes of this paragraph (a)(6)(ii)(B), an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature. For the purposes of this paragraph (a)(6)(ii)(B), an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

(C) *Consent for transmission and confidentiality of enterprise and public videophone registration.* A default VRS provider for an enterprise or public videophone must obtain consent from the individual responsible for the videophone to transmit the information required by this section to the TRS User Registration Database. Before obtaining such consent, a VRS provider must describe to such individual, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in denial of service to the videophone. A VRS provider must obtain and keep a record of affirmative acknowledgment of such consent for every enterprise and public videophone. A VRS provider shall maintain the confidentiality of any registration and certification information obtained by the provider, and may not disclose such registration and certification information, or the content of such registration and certification information, except as required by law or regulation.

(iii) *Enterprise and public videophone registration.* A default VRS provider for an enterprise or public videophone shall transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each enterprise or public videophone for which it assigns (or receives a port of) a North American Numbering Plan telephone number or for which it is the default VRS provider:

(A) The default VRS provider's name;

(B) The NANP telephone number assigned to the videophone;

(C) The name and physical address of the organization, business, or agency where the enterprise or public

videophone is located, and the Registered Location of the phone if that is different from the physical address;

(D) Whether the videophone is a public or enterprise videophone, and for enterprise videophones, the type of location where the videophone is located within the organization, business, agency, or other entity, such as, but not limited to, a reception desk or other work area, a private workspace, a private room in a long-term care facility, or another restricted area;

(E) The date of initiation of service to the videophone by the default VRS provider;

(F) The name of the individual responsible for the videophone, confirmation that the provider has obtained the certification required by paragraph (a)(6)(ii) of this section, and the date the certification was obtained by the provider; and

(G) Whether the device is assigned to a hearing individual who knows sign language.

(iv) *Transmission of data to the TRS User Registration Database.* Default VRS providers shall transmit the information required by paragraph (a)(6)(iii) of this section for existing enterprise and public videophones within 120 days after notice from the Commission that the TRS User Registration Database is ready to accept such information. For videophones placed in service more than 120 days after such notice, the default VRS provider shall submit the required information and certification before initiating service. VRS calls placed to or from enterprise or public videophones more than 120 days after such notice shall not be compensable if the required registration information was not received by the TRS User Registration Database before placement of the call.

(v) *Notice of removal or disconnection of enterprise and public videophones.* VRS providers shall notify the TRS Fund administrator within one business day in the event that a registered enterprise or public videophone is removed or permanently disconnected from VRS.

(b) *Mandatory registration of new users.* As of December 31, 2008, VRS and IP Relay providers must, prior to the initiation of service for an individual that has not previously utilized VRS or IP Relay, register that new user as described in paragraph (a) of this section.

(c) *Obligations of default providers and former default providers.* (1) Default providers must:

(i) Obtain current routing information from their Registered internet-based TRS Users, registered enterprise and public videophones, and hearing point-to-point video users;

(ii) Provision such information to the TRS Numbering Directory; and

(iii) Maintain such information in their internal databases and in the TRS Numbering Directory.

(2) Internet-based TRS providers (and, to the extent necessary, their Numbering Partners) must:

(i) Take such steps as are necessary to cease acquiring routing information from any VRS, IP Relay, or hearing point-to-point video user, or any individual responsible for maintaining an enterprise or public videophone, that ports a NANP telephone number to another VRS or IP Relay provider or otherwise selects a new default provider; and

(ii) Communicate among themselves as necessary to ensure that:

(A) Only the default provider provisions routing information to the central database; and

(B) VRS and IP Relay providers other than the default provider are aware that they must query the TRS Numbering Directory in order to obtain accurate routing information for a particular user of VRS or IP Relay, or for an enterprise or public videophone.

(d) *Proxy numbers.* After December 31, 2008, a VRS or IP Relay provider:

(1) May not assign or issue a proxy or alias for a NANP telephone number to any user; and

(2) Must cease to use any proxy or alias for a NANP telephone number assigned or issued to any Registered Internet-based TRS User.

(e) *Toll free numbers.* A VRS or IP Relay provider:

(1) May not assign or issue a toll free number to any VRS or IP Relay user.

(2) That has already assigned or provided a toll free number to a VRS or IP Relay user must, at the VRS or IP Relay user's request, facilitate the transfer of the toll free number to a

toll free subscription with a toll free service provider that is under the direct control of the user.

(3) Must within one year after the effective date of this Order remove from the Internet-based TRS Numbering Directory any toll free number that has not been transferred to a subscription with a toll free service provider and for which the user is the subscriber of record.

(f) *iTRS access technology.* (1) Every VRS or IP Relay provider must ensure that all iTRS access technology they have issued, leased, or otherwise provided to VRS or IP Relay users delivers routing information or other information only to the user's default provider, except as is necessary to complete or receive ''dial around'' calls on a case-by-case basis.

(2) All iTRS access technology issued, leased, or otherwise provided to VRS or IP Relay users by Internet-based TRS providers must be capable of facilitating the requirements of this section.

(g) *User notification.* Every VRS or IP Relay provider must include an advisory on its website and in any promotional materials addressing numbering or E911 services for VRS or IP Relay.

(1) At a minimum, the advisory must address the following issues:

(i) The process by which VRS or IP Relay users may obtain ten-digit telephone numbers, including a brief summary of the numbering assignment and administration processes adopted herein;

(ii) The portability of ten-digit telephone numbers assigned to VRS or IP Relay users;

(iii) The process by which persons using VRS or IP Relay may submit, update, and confirm receipt by the provider of their Registered Location information;

(iv) An explanation emphasizing the importance of maintaining accurate, up-to-date Registered Location information with the user's default provider in the event that the individual places an emergency call via an Internet-based relay service;

(v) The process by which a VRS or IP Relay user may acquire a toll free number, or transfer control of a toll free number from a VRS or IP Relay provider to the user;

(vi) The process by which persons holding a toll free number request that the toll free number be linked to their ten-digit telephone number in the TRS Numbering Directory; and

(vii) If the provider assigns iTRS numbers to hearing point-to-point video users, an explanation that hearing point-to-point video users will not be able to place an emergency call.

(2) VRS and IP Relay providers must obtain and keep a record of affirmative acknowledgment by every Registered Internet-based TRS User of having received and understood the advisory described in this subsection.

(h)–(i) [Reserved]

(j)(1) *IP CTS Registration and Certification Requirements.*

(i) IP CTS providers must first obtain the following registration information from each consumer prior to requesting compensation from the TRS Fund for service provided to the consumer: The consumer's full name, date of birth, last four digits of the consumer's social security number, full residential address, and telephone number.

(ii) [Reserved]

(iii) [Reserved]

(iv) *Self-certification prior to August 28, 2014.* IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification from the consumer, and if obtained prior to August 28, 2014, such written certification shall attest that the consumer needs IP CTS to communicate in a manner that is functionally equivalent to the ability of a hearing individual to communicate using voice communication services. The certification must include the consumer's certification that:

(A) The consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users;

(B) The consumer understands that the captioning service is provided by a live communications assistant; and

(C) The consumer understands that the cost of IP CTS is funded by the TRS Fund.

(v) *Self-certification on or after August 28, 2014.* IP CTS providers must also first obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, a written certification from the consumer, and if obtained on or after August 28, 2014, such certification shall state that:

(A) The consumer has a hearing loss that necessitates use of captioned telephone service;

(B) The consumer understands that the captioning on captioned telephone service is provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone;

(C) The consumer understands that the cost of captioning each internet protocol captioned telephone call is funded through a federal program; and

(D) The consumer will not permit, to the best of the consumer's ability, persons who have not registered to use internet protocol captioned telephone service to make captioned telephone calls on the consumer's registered IP captioned telephone service or device.

(vi) The certification required by paragraphs (j)(1)(iv) and (v) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. Beginning on August 28, 2014, such certification shall be made under penalty of perjury. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(vii) *Third-party certification prior to August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than $75 and the consumer was registered in accordance with the requirements of paragraph (j)(1) of this section prior to August 28, 2014, the IP CTS provider must also obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(viii) To comply with paragraph (j)(1)(vii) of this section, the independent professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and may include, but are not limited to, community-based social service providers, hearing related professionals, vocational rehabilitation counselors, occupational therapists, social workers, educators, audiologists, speech pathologists, hearing instrument specialists, and doctors, nurses and other medical or health professionals;

(B) Provide his or her name, title, and contact information, including address, telephone number, and email address; and

(C) Certify in writing that the IP CTS user is an individual with hearing loss who needs IP CTS to communicate in a manner that is functionally equivalent to telephone service experienced by individuals without hearing disabilities.

(ix) *Third-party certification on or after August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than $75, the consumer (in cases where the equipment was obtained directly from the IP CTS provider) has not subsequently paid $75 to the IP CTS provider for the equipment prior to the date the consumer is registered to use IP CTS, and the consumer is registered in accordance with the requirements of paragraph (j)(1) of this section on or after August 28, 2014, the IP CTS provider must also, prior to requesting compensation from the TRS Fund for service to the consumer, obtain from each consumer written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(x) To comply with paragraph (j)(1)(ix) of this section, the independent third-party professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional. Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively ''affiliate'') of any TRS provider. Nor shall the third party professional making such certification have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service.

(B) Provide his or her name, title, and contact information, including address, telephone number, and email address.

(C) Certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone service is provided by a live communications assistant and is funded through a federal program.

(xi) In instances where the consumer has obtained IP CTS equipment from a local, state, or federal governmental program, the consumer may present documentation to the IP CTS provider demonstrating that the equipment was obtained through one of these programs, in lieu of providing an independent, third-party certification under paragraphs (j)(1)(vii) and (ix) of this section.

(xii) Each IP CTS provider shall maintain records of any registration and certification information for a period of at least five years after the consumer ceases to obtain service from the provider and shall maintain the confidentiality of such registration and certification information, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(xiii) [Reserved]

(2) *TRS User Registration Database Information for IP CTS.* (i) Each IP CTS Provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered IP CTS users:

(A) Full name;

(B) Full residential address;

(C) Telephone number;

(D) A unique identifier such as the electronic serial number (ESN) of the user's IP CTS device, the user's log-in identification, or the user's email address;

(E) The last four digits of the user's social security number or Tribal Identification number (or alternative documentation, if such documentation is permitted by and has been collected pursuant to *Misuse of internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 1093 (CGB 2015));

(F) Date of birth;

(G) Registered Location (if applicable);

(H) IP CTS provider name;

(I) Date of service initiation and (when applicable) termination;

(J) A digital copy of the user's self-certification of eligibility for IP CTS and the date obtained by the provider; and

(K) For existing users onlythe date on which the IP CTS user last placed an IP CTS call.

(ii) Each IP CTS provider shall obtain, from each new and existing registered IP CTS user, consent to transmit the registered IP CTS user's information to the TRS User Registration Database. Prior to obtaining such consent, the IP CTS provider shall describe to the registered IP CTS user, using clear, easily understood language, the specific information obtained by the IP CTS provider from the user that is to be transmitted, and inform the user that the information is being transmitted to the TRS User Registration Database to ensure proper

administration of the TRS program, and that failure to provide consent will result in the registered IP CTS user being denied service. IP CTS providers shall keep a record of affirmative acknowledgment of such consent by every registered IP CTS user.

(iii) *Registration of Emergency Shelter Devices.* An IP CTS provider may seek and receive TRS Fund compensation for the provision of captioning service to users of a temporary, public IP CTS device set up in an emergency shelter, provided that, before commencing service to such a device, the IP CTS provider collects, maintains in its registration records, and submits to the TRS User Registration Database all information reasonably requested by the administrator, including the telephone number and location of the device. IP CTS providers shall remove the device's registration information from the Database when service for such a device is terminated.

(iv) By the date of initiation of service to an IP CTS user or device, or one year after notice from the Commission that the TRS User Registration Database is ready to accept such information, whichever is later, IP CTS providers shall submit to the TRS User Registration Database the registration information required by paragraph (j)(2)(i) or (iii) of this section. Calls from or to registered IP CTS users or devices whose registration information has not been populated in the TRS User Registration Database by the applicable date shall not be compensable, and an IP CTS provider shall not seek TRS Fund compensation for such calls.

(v) IP CTS providers may provide service to new users for up to two weeks after the user's registration information has been submitted to the TRS User Registration Database pending verification of the user's identity. After a user's identity is verified by the Database administrator, IP CTS providers may seek TRS Fund compensation for calls handled during such pre-verification period.

(vi) When registering a user who is transferring service from another IP CTS provider, IP CTS providers shall obtain and submit a digital copy of a user's self-certification of eligibility if a query of the TRS User Registration Database shows a properly executed certification has not been filed.

(3) An IP CTS provider shall not seek TRS Fund compensation for providing captioning service to any individual or device if the registration information for such individual or device has been removed from the TRS User Registration Database, or if the provider obtains information that the individual or device is not eligible to receive IP CTS.

(k) *Registration for use of TRS in correctional facilities*—(1) *Individual user registration.* (i) through (iii) [Reserved]

(iv) *Dial-around calls for VRS.* VRS providers shall not allow dial-around calls by incarcerated persons.

(2) *Enterprise user registration for VRS.* Notwithstanding the other provisions of this section, for the purpose of providing VRS to incarcerated individuals under enterprise registration, pursuant to paragraph (a)(6) of this section, a TRS provider may assign to a correctional authority a pool of telephone numbers that may be used interchangeably with any videophone or other user device made available for the use of VRS in correctional facilities overseen by such authority. For the purpose of such enterprise registration, the address of the organization specified pursuant to paragraph (a)(6)(iii) of this section may be the main or administrative address of the correctional authority, and a Registered Location need not be provided.

[73 FR 41295, July 18, 2008, as amended at 76 FR 59557, Sept. 27, 2011; 78 FR 40608, July 5, 2013; 82 FR 17763, Apr. 13, 2017; 82 FR 39683, Aug. 22, 2017; 84 FR 8461, Mar. 8, 2019; 84 FR 26371, June 6, 2019; 85 FR 26858, May 6, 2020; 85 FR 52489, Aug. 26, 2020; 87 FR 57468, Sept. 21, 2022; 87 FR 75513, Dec. 9, 2022]

EFFECTIVE DATE NOTE: At 87 FR 75514, Dec. 9, 2022, §64.611 was amended by adding paragraphs (k)(1)(i) through (iii), these paragraphs were delayed indefinitely. For the convenience of the user, the added text is set forth as follows:

§64.611 Internet-based TRS registration.

* * * * *

(k) * * *

(1) * * *—

(i) *Registration information and documentation.* If an individual eligible to use TRS registers with an internet-based TRS provider

while incarcerated, the provider shall collect and transmit to the TRS User Registration Database the information and documentation required by the applicable provisions of this section, except that:

(A) The residential address specified for such incarcerated person shall be the name of the correctional authority with custody of that person along with the main or administrative address of such authority;

(B) A Registered Location need not be provided; and

(C) If an incarcerated person has no Social Security number or Tribal Identification number, an identification number assigned by the correctional authority along with the facility identification number, if there is one, may be provided in lieu of the last four digits of a Social Security number or a Tribal Identification number.

(ii) *Verification of VRS and IP CTS registration data.* An incarcerated person's identity and address may be verified pursuant to § 64.615(a)(6), for purposes of VRS or IP CTS registration, based on documentation, such as a letter or statement, provided by an official of a correctional authority that states the name of the person; the person's identification number assigned by the correctional authority; the name of the correctional authority; and the address of the correctional facility. The VRS or IP CTS provider shall transmit such documentation to the TRS User Registration Database administrator.

(iii) *Release or transfer of incarcerated person.* Upon release (or transfer to a different correctional authority) of an incarcerated person who has registered for VRS or IP CTS, the VRS or IP CTS provider with which such person has registered shall update the person's registration information within 30 days after such release or transfer. Such updated information shall include, in the case of release, the individual's full residential address and (if required by this section or part 9 of this chapter) Registered Location, and in the case of transfer, shall include the information required by paragraph (k)(1)(ii) of this section.

§ 64.613 Numbering directory for Internet-based TRS users.

(a) *TRS Numbering Directory.* (1) The TRS Numbering Directory shall contain records mapping the geographically appropriate NANP telephone number of each Registered internet-based TRS User, registered enterprise videophone, registered public videophone, direct video customer support center, and hearing point-to-point video user to a unique Uniform Resource Identifier (URI).

(2) For each record associated with a geographically appropriate NANP telephone number for a registered VRS user, enterprise videophone, public videophone, direct video customer support center, carceral point-to-point video service, or hearing point-to-point video user, the URI shall contain a server domain name or the IP address of the user's device. For each record associated with an IP Relay user's geographically appropriate NANP telephone number, the URI shall contain the user's user name and domain name that can be subsequently resolved to reach the user.

(3) Within one year after the effective date of this Order, Internet-based TRS providers must ensure that a user's toll free number that is associated with a geographically appropriate NANP number will be associated with the same URI as that geographically appropriate NANP telephone number.

(4) Only the TRS Numbering Administrator, internet-based TRS providers, and Qualified Direct Video Entities may access the TRS Numbering Directory.

(5) VRS providers shall route all calls placed to NANP numbers entered in the TRS Numbering Directory in accordance with the associated routing information, except that a call placed by a registered VRS user to a NANP number that is capable of receiving either voice or video calls may be handled and routed as a VRS call if the caller affirmatively so requests.

(b) *Administration*—(1) *Neutrality.* (i) The TRS Numbering Administrator shall be a non-governmental entity that is impartial and not an affiliate of any Internet-based TRS provider.

(ii) Neither the TRS Numbering Administrator nor any affiliate may issue a majority of its debt to, nor derive a majority of its revenues from, any Internet-based TRS provider.

(iii) Nor may the TRS Numbering Administrator nor any affiliate be unduly influenced, as determined by the North American Numbering Council, by parties with a vested interest in the outcome of TRS-related numbering administration and activities.

(iv) Any subcontractor that performs any function of the TRS Numbering Administrator must also meet these neutrality criteria.

(2) *Terms of Administration.* The TRS Numbering Administrator shall administer the TRS Numbering Directory pursuant to the terms of its contract.

(3) *Compensation.* The TRS Fund, as defined by 47 CFR 64.604(a)(5)(iii), may compensate the TRS Numbering Administrator for the reasonable costs of administration pursuant to the terms of its contract.

(c) *Direct video customer support and carceral point-to-point video service*—(1) *Registration.* Any person seeking to access the TRS Numbering Directory as a Qualified Direct Video Entity shall submit an application to the Commission addressed to the Federal Communications Commission, Chief, Consumer and Governmental Affairs Bureau and captioned ''Direct Video Numbering Directory Access Application.'' The application shall include:

(i) The applicant's name, address, telephone number, and email address;

(ii) A description of the service to be provided;

(iii) An acknowledgment that the authorization granted under this paragraph (c) is subject to compliance with applicable Commission rules;

(iv) Contact information for personnel responsible for addressing issues relating to such compliance; and

(v) Certification that the applicant's description of service meets the definition of direct video customer support or carceral point-to-point video service and that the information provided is accurate and complete.

(2) *Commission authorization.* The Commission shall approve an application for a Qualified Direct Video Entity to have access to the TRS Numbering Directory if the applicant demonstrates, through its responses to each of the requests for information in paragraph (c)(1) of this section and any additional information requested by the Commission, that the applicant has a legitimate need for such access and is aware of its regulatory obligations.

(3) *Termination of authorization.* Authorization to access the TRS Numbering Directory shall terminate:

(i) If a Qualified Direct Video Entity relinquishes its authorization by notifying the Commission;

(ii) Automatically if one year elapses with no call-routing queries received regarding any of the Qualified Direct Video Entity's NANP telephone numbers for direct video customer support; or

(iii) If the Commission determines, after notice to the entity and an opportunity for the entity to contest the proposed termination, that the entity is no longer qualified as described in its application, has materially misrepresented information to the Commission, the TRS Numbering administrator, or the TRS User Registration Database administrator, has failed to provide required information in the format requested, or has violated an applicable Commission rule or order or a requirement imposed by authority of the TRS Numbering administrator or the TRS User Registration Database administrator. Following the termination of an authorization, the TRS Numbering administrator shall remove the previously authorized entity's telephone numbers from the TRS Numbering Directory.

(4) *Notification of material change.* A Qualified Direct Video Entity that is granted access to the TRS Numbering Directory shall notify the Commission within 60 days of any material changes to information provided in its application.

(5) *Qualified Direct Video Entities' obligations.* A Qualified Direct Video Entity shall comply with all relevant rules and obligations applicable to VRS providers' access to the TRS Numbering Directory and the use of numbers provisioned in the TRS Numbering Directory, including, but not limited to:

(i) Provisioning and maintaining current routing information in the TRS Numbering Directory for each NANP telephone number that it enters in such directory;

(ii) Being able to make point-to-point calls to any VRS user in accordance with all interoperability standards applicable to VRS providers, including, but not limited to, the relevant technical standards specified in § 64.621(b);

(iii) For direct video customer support being able to receive point-to-point or VRS calls from any VRS user in accordance with all interoperability standards applicable to VRS providers,

including, but not limited to, the relevant technical standards specified in § 64.621(b);

(iv) Protecting customer proprietary network information of any VRS user obtained in accordance with §§ 64.5101 through 64.5111 (TRS Customer Proprietary Network Information);

(v) Following TRS Numbering Directory access procedures and performing related administrative functions as directed by the TRS Numbering administrator in consultation with the Managing Director and the Chief, Consumer and Governmental Affairs Bureau; and

(vi) Adhering to all other applicable standards pertaining to privacy, security, and reliability.

(6) *Call transfer capability.* A Qualified Direct Video Entity engaged in direct video customer support shall ensure that each customer support center is able to initiate a call transfer that converts a point-to-point video call into a VRS call, in the event that a VRS user communicating with a direct video customer agent needs to be transferred to a hearing person while the call is in progress. Each VRS provider shall be capable of activating an effective call transfer procedure within 60 days after receiving a request to do so from a Qualified Direct Video Entity engaged in direct video customer support.

(7) *TRS User Registration Database.* For each direct video number to be entered into the TRS Numbering Directory, unless otherwise instructed by the TRS User Registration Database administrator, a Qualified Direct Video Entity must create an equivalent entry in the TRS User Registration Database by providing:

(i) The Qualified Direct Video Entity's name;

(ii) The date that the Qualified Direct Video Entity was approved for TRS Numbering Directory access;

(iii) The name of the correctional facility or end-user customer support center (if different from the Qualified Direct Video Entity);

(iv) Contact information for the correction facility or end-user customer support call center(s); and

(v) Other information reasonably requested by the TRS User Registration Database administrator.

[73 FR 41296, July 18, 2008, as amended at 76 FR 59577, Sept. 27, 2011; 82 FR 17764, Apr. 13, 2017; 82 FR 39683, Aug. 22, 2017; 84 FR 26371, June 6, 2019; 87 FR 75514, Dec. 9, 2022]

§ 64.615 TRS User Registration Database and administrator.

(a) *TRS User Registration Database.*

(1) *VRS users call validation.* VRS providers shall validate the eligibility of the party on the video side of each call by querying the TRS User Registration Database or the TRS Numbering Directory, as directed by the Commission, the TRS Fund administrator, or the TRS Numbering Administrator, on a per-call basis. Emergency 911 calls are excepted from the requirement in this paragraph (a)(1).

(i) Validation shall occur during the call setup process, prior to the placement of the call.

(ii) If the eligibility of at least one party to the call is not validated using the TRS User Registration Database, the call shall not be completed, and the VRS provider shall either terminate the call or, if appropriate, offer to register the user if they are able to demonstrate eligibility.

(iii) Calls that VRS providers are prohibited from completing because the user's eligibility cannot be validated shall not be included in speed of answer calculations and shall not be eligible for compensation from the TRS Fund.

(2) *Enterprise and public videophone call validation.* (i) VRS providers shall validate the registration of an enterprise or public videophone used for a VRS call by querying the designated database in accordance with paragraph (a)(1) of this section.

(ii) [Reserved]

(iii) VRS providers shall require their CAs to terminate any call which does not include a registered enterprise or public videophone or, pursuant to the provider's policies, the call does not appear to be a legitimate VRS call, and VRS providers may not seek compensation for such calls from the TRS Fund.

(iv) Emergency 911 calls from enterprise and public videophones shall be exempt from the videophone validation

requirements of paragraph (a)(2)(i) of this section.

(3) The administrator of the TRS User Registration Database shall assign a unique identifier to each user in the TRS User Registration Database.

(4) *Data integrity.* (i) Each VRS and IP CTS provider shall request that the administrator of the TRS User Registration Database remove from the TRS User Registration Database user information for any registered user or hearing point-to-point user:

(A) Who informs its default VRS provider or its IP CTS provider that it no longer wants use of a ten-digit number for TRS or (in the case of a hearing point-to-point video user) for point-to-point video service; or

(B) For whom the provider obtains information that the user is not eligible to use the service.

(ii) The administrator of the TRS User Registration Database shall remove the data of:

(A) Any VRS user that has neither placed nor received a VRS or point-to-point call in a one-year period; and

(B) Any user for which a VRS or IP CTS provider makes a request under paragraph (a)(3)(i) of this section.

(5) A VRS or IP CTS provider may query the TRS User Registration Database only for the purposes provided in this subpart, and to determine whether information with respect to its registered users already in the database is correct and complete.

(6) *User verification.* (i) The TRS User Registration Database shall have the capability of performing an identification verification check when a VRS provider, IP CTS provider, or other party submits a query to the database about an existing or potential user or an enterprise or public videophone.

(ii) VRS and IP CTS providers shall not register individuals or enterprise or public videophones that do not pass the identification verification check conducted through the TRS User Registration Database.

(iii) VRS providers shall not seek compensation for calls placed by individuals or for calls placed to or from enterprise or public videophones that do not pass the identification verification check conducted through the TRS User Registration Database.

(iv) IP CTS providers shall not seek compensation for calls placed to or from individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

(v) Notwithstanding paragraphs (a)(6)(ii) through (iv) of this section, VRS and IP CTS providers may provide service to a new or porting user for up to two weeks after the user's registration information has been submitted to the TRS User Registration Database, pending verification of the user's identity. After such user's identity is verified by the Database administrator, a TRS provider may seek TRS Fund compensation for calls handled during such pre-verification period.

(vi) If a VRS provider submits registration information for a TRS telephone number that is being ported from another VRS provider, and user's identity cannot be immediately verified, then the porting-in provider's routing information for that telephone number shall be provisionally entered in the TRS Numbering Directory for up to two weeks to allow the routing of calls to the porting-in VRS provider pursuant to paragraph (a)(6)(v) of this section. If the user's identity is not verified by the TRS User Registration Database administrator within the allowed two-week period, the porting-out provider's routing information shall be re-entered in the TRS Number Directory.

(b) *Administration*—(1) *Terms of administration.* The administrator of the TRS User Registration Database shall administer the TRS User Registration Database pursuant to the terms of its contract.

(2) *Compensation.* The TRS Fund, as defined by § 64.604(a)(5)(iii) of this subpart, may be used to compensate the administrator of the TRS User Registration Database for the reasonable costs of administration pursuant to the terms of its contract.

[78 FR 40609, July 5, 2013, as amended at 82 FR 17764, Apr. 13, 2017; 84 FR 8463, Mar. 8, 2019; 84 FR 26372, June 6, 2019; 85 FR 26858, May 6, 2020; 87 FR 57648, Sept. 21, 2022]

§ 64.619 VRS Access Technology Reference Platform and administrator.

(a) *VRS Access Technology Reference Platform.* (1) The VRS Access Technology Reference Platform shall be a software product that performs consistently with the rules in this subpart, including any standards adopted in § 64.621 of this subpart.

(2) The VRS Access Technology Reference Platform shall be available for use by the public and by developers.

(b) *Administration*—(1) Terms of administration. The administrator of the VRS Access Technology Reference Platform shall administer the VRS Access Technology Reference Platform pursuant to the terms of its contract.

(2) *Compensation.* The TRS Fund, as defined by § 64.604(a)(5)(iii) of this subpart, may be used to compensate the administrator of the VRS Access Technology Reference Platform for the reasonable costs of administration pursuant to the terms of its contract.

[78 FR 40609, July 5, 2013]

§ 64.621 Interoperability and portability.

(a) *General obligations of VRS providers.* (1) All Video Relay Service (VRS) users and hearing point-to-point video users must be able to place a VRS or point-to-point video call through any of the VRS providers' services, and all VRS providers must be able to receive calls from, and make calls to, any VRS or hearing point-to-point video user.

(2) A VRS provider may not take steps that restrict a user's unfettered access to another provider's service, such as providing degraded service quality to VRS users using VRS equipment or service with another provider's service.

(3) All VRS providers must ensure that their VRS access technologies and their video communication service platforms are interoperable with the VRS Access Technology Reference Platform, including for point-to-point calls. No VRS provider shall be compensated for minutes of use involving their VRS access technologies or video communication service platforms that are not interoperable with the VRS Access Technology Reference Platform.

(4) All VRS providers must ensure that their VRS access technologies and their video communication service platforms are interoperable with the Neutral Video Communication Service Platform, including for point-to-point calls. No VRS provider shall be compensated for minutes of use involving their VRS access technologies or video communication service platforms that are not interoperable with the Neutral Video Communication Service Platform.

(b) *Technical standards for interoperability and portability.* (1) Beginning no later than December 20, 2017, VRS providers shall ensure that their provision of VRS and video communications, including their access technology, meets the requirements of the VRS Provider Interoperability Profile.

(2) Beginning no later than October 24, 2017, VRS providers shall provide a standard xCard export interface to enable users to import their lists of contacts in xCard XML format, in accordance with IETF RFC 6351.

(c) *Incorporation by reference.* The material listed in this paragraph (c) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the FCC and the National Archives and Records Administration (NARA). Contact the FCC through the Federal Communications Commission's Reference Information Center, phone: (202) 418–0270. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations.html* or email *fr.inspection@nara.gov*. The material may be obtained from the following sources in this paragraph (c):

(1) FCC (on behalf of SIP Forum), located at the address indicated in 47 CFR 0.401(a), Tel: (888) 225–5322 (voice), (844) 432–2275 (videophone), (888) 835–5322 (TTY).

(i) VRS US Providers Profile TWG–6.1, the US VRS Provider Interoperability Profile, September 23, 2015. *https://www.fcc.gov/files/sip-forum-vrs-us-providers-profile-twg-6-1.*

(ii) [Reserved]

(2) The following standards are available from the Internet Engineering Task Force (IETF) Secretariat, 5177 Brandin Court, Fremont, CA 94538, 510–492–4080.

(i) [Reserved]

(ii) Request for Comments (RFC) 6351, xCard: vCard XML Representation (August 2011) *https://tools.ietf.org/html/rfc6351*.

[78 FR 40609, July 5, 2013, as amended at 82 FR 17764, Apr. 13, 2017; 82 FR 19325, Apr. 27, 2017; 82 FR 39683, Aug. 22, 2017; 85 FR 64407, Oct. 13, 2020; 86 FR 35633, July 7, 2021; 86 FR 54871, Oct. 5, 2021; 88 FR 21445, Apr. 10, 2023]

§ 64.623 Administrator requirements.

(a) For the purposes of this section, the term ''Administrator'' shall refer to each of the TRS Numbering administrator, the administrator of the TRS User Registration Database, the administrator of the VRS Access Technology Reference Platform, and the provider of the Neutral Video Communication Service Platform. A single entity may serve in one or more of these capacities.

(b) *Neutrality*. (1) The Administrator shall be a non-governmental entity that is impartial and not an affiliate of any Internet-based TRS provider.

(2) Neither the Administrator nor any affiliate thereof shall issue a majority of its debt to, nor derive a majority of its revenues from, any Internet-based TRS provider.

(3) Neither the TRS Numbering administrator nor any affiliate thereof shall be unduly influenced, as determined by the North American Numbering Council, by parties with a vested interest in the outcome of TRS-related numbering administration and activities.

(4) None of the administrator of the TRS User Registration Database, the administrator of the VRS Access Technology Reference Platform, or the provider of the Neutral Video Communication Service Platform, nor any affiliates thereof, shall be unduly influenced, as determined by the Commission, by parties with a vested interest in the outcome of TRS-related activities.

(5) Any subcontractor that performs any function of any Administrator shall also meet the neutrality criteria applicable to such Administrator.

(c) *Terms of administration*. The Administrator shall administer pursuant to the terms of its contract.

(d) *Compensation*. The TRS Fund, as defined by § 64.604(a)(5)(iii) of this subpart, may be used to compensate the Administrator for the reasonable costs of administration pursuant to the terms of its contract.

[78 FR 40609, July 5, 2013]

§ 64.630 Applicability of change of default TRS provider rules.

(a) Sections 64.630 through 64.636 governing changes in default TRS providers shall apply to any provider of IP Relay or VRS eligible to receive payments from the TRS Fund.

(b) For purposes of §§ 64.630 through 64.636, the term *iTRS users* is defined as any individual that has been assigned a ten-digit NANP number from the TRS Numbering Directory for IP Relay, VRS, or point-to-point video service.

[82 FR 17764, Apr. 13, 2017]

§ 64.631 Verification of orders for change of default TRS providers.

(a) No iTRS provider, either directly or through its numbering partner, shall initiate or implement the process to change an iTRS user's selection of a default provider prior to obtaining:

(1) Authorization from the iTRS user, and

(2) Verification of that authorization in accordance with the procedures prescribed in this section. The new default provider shall maintain and preserve without alteration or modification all records of verification of the iTRS user's authorization for a minimum period of five years after obtaining such verification and shall make such records available to the Commission upon request. In any case where the iTRS provider is unable, unwilling or otherwise fails to make such records available to the Commission upon request, it shall be presumed that the iTRS provider has failed to comply with its verification obligations under the rules.

(b) Where an iTRS provider is offering more than one type of TRS, that

provider must obtain separate authorization from the iTRS user for each service, although the authorizations may be obtained within the same transaction. Each authorization must be verified separately from any other authorizations obtained in the same transaction. Each authorization must be verified in accordance with the verification procedures prescribed in this part.

(c) A new iTRS provider shall not, either directly or through its numbering partner, initiate or implement the process to change a default provider unless and until the order has been verified in accordance with one of the following procedures:

(1) The iTRS provider has obtained the iTRS user's written or electronically signed authorization in a form that meets the requirements of § 64.632 of this part; or

(2) An independent third party meeting the qualifications in this subsection has obtained, in accordance with the procedures set forth in paragraphs (c)(2)(i) through (iv) of this section, the iTRS user's authorization to implement the default provider change order that confirms and includes appropriate verification of registration data with the TRS User Registration Database as defined in § 64.601(a) of this part. The independent third party must not be owned, managed, controlled, or directed by the iTRS provider or the iTRS provider's marketing agent; must not have any financial incentive to confirm default provider change orders for the iTRS provider or the iTRS provider's marketing agent; and must operate in a location physically separate from the iTRS provider or the iTRS provider's marketing agent.

(i) Methods of third party verification. Third party verification systems and three-way conference calls may be used for verification purposes so long as the requirements of paragraphs (c)(3)(ii) through (iv) of this section are satisfied. It shall be a per se violation of these rules if at any time the iTRS provider, an iTRS provider's marketing representative, or any other person misleads the iTRS user with respect to the authorization that the iTRS user is giving, the purpose of that authorization, the purpose of the verification, the verification process, or the identity of the person who is placing the call as well as on whose behalf the call is being placed, if applicable.

(ii) Provider initiation of third party verification. An iTRS provider or an iTRS provider's marketing representative initiating a three-way conference call must drop off the call once the three-way connection has been established.

(iii) Requirements for content and format of third party verification. Any description of the default provider change transaction by a third party verifier must not be misleading. At the start of the third party verification process, the third party verifier shall identify the new default provider to the iTRS user and shall confirm that the iTRS user understands that the iTRS user is changing default providers and will no longer receive service from the iTRS user's current iTRS provider. In addition, all third party verification methods shall elicit, at a minimum: The date of the verification; the identity of the iTRS user; confirmation that the person on the call is the iTRS user; confirmation that the iTRS user wants to make the default provider change; confirmation that the iTRS user understands that a default provider change, not an upgrade to existing service, or any other misleading description of the transaction, is being authorized; confirmation that the iTRS user understands what the change in default provider means, including that the iTRS user may need to return any video equipment belonging to the original default provider; the name of the new default provider affected by the change; the telephone number of record to be transferred to the new default provider; and the type of TRS used with the telephone number being transferred. If the iTRS user has additional questions for the iTRS provider's marketing representative during the verification process, the verifier shall instruct the iTRS user that they are terminating the verification process, that the iTRS user may contact the marketing representative with additional questions, and that the iTRS user's default provider will not be changed. The marketing representative

may again initiate the verification process following the procedures set out in this section after the iTRS user contacts the marketing representative with any additional questions. Third party verifiers may not market the iTRS provider's services by providing additional information.

(iv) Other requirements for third party verification. All third party verifications shall be conducted in the same language and format that were used in the underlying marketing transaction and shall be recorded in their entirety. In the case of VRS, this means that if the marketing process was conducted in American Sign Language (ASL), then the third party verification shall be conducted in ASL. In the event that the underlying marketing transaction was conducted via text over IP Relay, such text format shall be used for the third party verification. The third party verifier shall inform both the iTRS user and, where applicable, the communications assistant relaying the call, that the call is being recorded. The third party verifier shall provide the new default provider an audio, video, or IP Relay transcript of the verification of the iTRS user authorization. New default providers shall maintain and preserve audio and video records of verification of iTRS user authorization in accordance with the procedures set forth in paragraph (a)(2) of this section.

(d) A new default provider shall implement an iTRS user's default provider change order within 60 days of obtaining either:

(1) A written or electronically signed letter of agency in accordance with § 64.632 of this part or

(2) Third party verification of the iTRS user's default provider change order in accordance with paragraph (c)(2) of this section. If not implemented within 60 days as required herein, such default provider change order shall be deemed void.

(e) At any time during the process of changing an iTRS user's default provider, and until such process is completed, which is when the new default provider assumes the role of default provider, the original default provider shall not:

(1) Reduce the level or quality of iTRS service provided to such iTRS user, or

(2) Reduce the functionality of any VRS access technology provided by the iTRS provider to such iTRS user.

(f) An iTRS provider that is certified pursuant to § 64.606(a)(2) of this part may acquire, through a sale or transfer, either part or all of another iTRS provider's iTRS user base without obtaining each iTRS user's authorization and verification in accordance with paragraph (c) of this section, provided that the acquiring iTRS provider complies with the following streamlined procedures. An iTRS provider shall not use these streamlined procedures for any fraudulent purpose, including any attempt to avoid liability for violations under part 64 of the Commission rules.

(1) Not later than 30 days before the transfer of the affected iTRS users from the selling or transferring iTRS provider to the acquiring iTRS provider, the acquiring iTRS provider shall provide notice to each affected iTRS user of the information specified herein. The acquiring iTRS provider is required to fulfill the obligations set forth in the advance iTRS user notice. In the case of VRS, the notice shall be provided as a pre-recorded video message in American Sign Language sent to all affected iTRS users. In the case of IP Relay, the notice shall be provided as a pre-recorded text message sent to all affected iTRS users. The advance iTRS user notice shall be provided in a manner consistent with 47 U.S.C. 255, 617, 619 and the Commission's rules regarding accessibility to blind and visually-impaired consumers, §§ 6.3, 6.5, 14.20, and 14.21 of this chapter. The following information must be included in the advance iTRS user notice:

(i) The date on which the acquiring iTRS provider will become the iTRS user's new default provider;

(ii) The iTRS user's right to select a different default provider for the iTRS at issue, if an alternative iTRS provider is available;

(iii) Whether the acquiring iTRS provider will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer

against the selling or transferring iTRS provider, and

(iv) The toll-free customer service telephone number of the acquiring iTRS provider.

(2) All iTRS users receiving the notice will be transferred to the acquiring iTRS provider, unless they have selected a different default provider before the transfer date.

[78 FR 40609, July 5, 2013]

§ 64.632 Letter of authorization form and content.

(a) An iTRS provider may use a written or electronically signed letter of authorization to obtain authorization of an iTRS user's request to change his or her default provider. A letter of authorization that does not conform with this section is invalid for purposes of this subpart.

(b) The letter of authorization shall be a separate document or located on a separate screen or Web page. The letter of authorization shall contain the following title ''Letter of Authorization to Change my Default Provider'' at the top of the page, screen, or Web page, as applicable, in clear and legible type.

(c) The letter of authorization shall contain only the authorizing language described in paragraph (d) of this section and be strictly limited to authorizing the new default provider to implement a default provider change order. The letter of authorization shall be signed and dated by the iTRS user requesting the default provider change.

(d) At a minimum, the letter of authorization must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

(1) The iTRS user's registered name and address and each telephone number to be covered by the default provider change order;

(2) The decision to change the default provider from the original default provider to the new default provider;

(3) That the iTRS user designates [insert the name of the new default provider] to act as the iTRS user's agent and authorizing the new default provider to implement the default provider change; and

(4) That the iTRS user understands that only one iTRS provider may be designated as the TRS user's default provider for any one telephone number.

(e) If any portion of a letter of authorization is translated into another language then all portions of the letter of authorization must be translated into that language. Every letter of authorization must be translated into the same language as any promotional materials, descriptions or instructions provided with the letter of authorization.

(f) Letters of authorization submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act.

[78 FR 40609, July 5, 2013]

§ 64.633 Procedures for resolution of unauthorized changes in default provider.

(a) *Notification of alleged unauthorized provider change.* Original default providers who are informed of an unauthorized default provider change by an iTRS user shall immediately notify the allegedly unauthorized provider and the Commission's Consumer and Governmental Affairs Bureau of the incident.

(b) *Referral of complaint.* Any iTRS provider that is informed by an iTRS user or original default provider of an unauthorized default provider change shall:

(1) Notify the Commission's Consumer and Governmental Affairs Bureau, and

(2) Shall inform that iTRS user of the iTRS user's right to file a complaint with the Commission's Consumer and Governmental Affairs Bureau. iTRS providers shall also inform the iTRS user that the iTRS user may contact and file a complaint with the alleged unauthorized default provider. An original default provider shall have the right to file a complaint with the Commission in the event that one of its respective iTRS users is the subject of an alleged unauthorized default provider change.

(c) *Notification of receipt of complaint.* Upon receipt of an unauthorized default provider change complaint or notification filed pursuant to this section, the Commission will notify the allegedly unauthorized provider and the Fund administrator of the complaint or notification and order that the unauthorized provider identify to the Fund administrator all minutes attributable to the iTRS user after the alleged unauthorized change of default provider is alleged to have occurred. The Fund administrator shall withhold reimbursement for such minutes pending Commission determination of whether an unauthorized change, as defined by §64.601(a) of this part, has occurred, if it has not already done so.

(d) *Proof of verification.* Not more than 30 days after notification of the complaint or other notification, the alleged unauthorized default provider shall provide to the Commission's Consumer and Governmental Affairs Bureau a copy of any valid proof of verification of the default provider change. This proof of verification must clearly demonstrate a valid authorized default provider change, as that term is defined in §§64.631 through 64.632 of this part. The Commission will determine whether an unauthorized change, as defined by §64.601(a) of this part, has occurred using such proof and any evidence supplied by the iTRS user or other iTRS providers. Failure by the allegedly unauthorized provider to respond or provide proof of verification will be presumed to be sufficient evidence of a violation.

[78 FR 40609, July 5, 2013]

§64.634 Procedures where the Fund has not yet reimbursed the provider.

(a) This section shall only apply after an iTRS user or iTRS provider has complained to or notified the Commission that an allegedly unauthorized change, as defined by §64.601(a) of this part, has occurred, and the TRS Fund (Fund), as defined in §64.604(c)(5)(iii) of this part, has not reimbursed the allegedly unauthorized default provider for service attributable to the iTRS user after the allegedly unauthorized change occurred.

(b) An allegedly unauthorized provider shall identify to the Fund administrator all minutes submitted by the allegedly unauthorized provider to the Fund for reimbursement that are attributable to the iTRS user after the allegedly unauthorized change of default provider, as defined by §64.601(a) of this part, is alleged to have occurred.

(c) If the Commission determines that an unauthorized change, as defined by §64.601(a) of this part, has occurred, the Commission shall direct the Fund administrator to not reimburse for any minutes attributable to the iTRS user after the unauthorized change occurred, and neither the authorized nor the unauthorized default provider may seek reimbursement from the fund for those charges. The remedies provided in this section are in addition to any other remedies available by law.

(d) If the Commission determines that the default provider change was authorized, the default provider may seek reimbursement from the Fund for minutes of service provided to the iTRS user.

[78 FR 40609, July 5, 2013]

§64.635 Procedures where the Fund has already reimbursed the provider.

(a) The procedures in this section shall only apply after an iTRS user or iTRS provider has complained to or notified the Commission that an unauthorized change, as defined by §64.601(a) of this part, has occurred, and the Fund has reimbursed the allegedly unauthorized default provider for minutes of service provided to the iTRS user.

(b) If the Commission determines that an unauthorized change, as defined by §64.601(a) of this part, has occurred, it shall direct the unauthorized default provider to remit to the Fund an amount equal to 100% of all payments the unauthorized default provider received from the Fund for minutes attributable to the iTRS user after the unauthorized change occurred. The remedies provided in this

section are in addition to any other remedies available by law.

[78 FR 40609, July 5, 2013]

§ 64.636 Prohibition of default provider freezes.

(a) A default provider freeze prevents a change in an iTRS user's default provider selection unless the iTRS user gives the provider from whom the freeze was requested his or her express consent.

(b) Default provider freezes shall be prohibited.

[78 FR 40609, July 5, 2013]

§ 64.640 Compensation for IP Relay.

(a) For the period from July 1, 2022, through June 30, 2026, TRS Fund compensation for the provision of IP Relay shall be as described in this section.

(b) For Fund Year 2022–23, comprising the period from July 1, 2022, through June 30, 2023, the Compensation Level for IP Relay shall be $1.9576 per minute.

(c) For each succeeding Fund Year through June 30, 2026, the per-minute Compensation Level (L_{FY}) shall be determined in accordance with the following equation:

$$L_{FY} = L_{FY-1} * (1+IF_{FY})$$

where IF_{FY} is the Inflation Adjustment Factor for that Fund Year, determined in accordance with paragraph (d) of this section.

(d) The inflation adjustment factor for a Fund Year (IF_{FY}), to be determined annually on or before June 30, is 1/100 times the difference between the values of the Employment Cost Index compiled by the Bureau of Labor Statistics, U.S. Department of Labor, for total compensation for private industry workers in professional, scientific, and technical services, for the following periods:

(1) The fourth quarter of the Calendar Year ending 6 months before the beginning of the Fund Year; and

(2) The fourth quarter of the preceding Calendar Year.

(e) In addition to L_{FY}, an IP Relay provider shall be paid a per-minute exogenous cost adjustment if claims for exogenous cost recovery are submitted by the provider and approved by the Commission on or before June 30. Such exogenous cost adjustment shall equal the amount of such approved claims divided by the provider's projected minutes for the Fund Year. Exogenous cost adjustments, if any, are not included in the previous Fund Year's per-minute Compensation Level (L_{FY-1}) for purposes of paragraph (c) of this section.

(f) An exogenous cost adjustment shall be paid if an IP Relay provider incurs well-documented costs that:

(1) Belong to a category of costs that the Commission has deemed allowable;

(2) Result from new TRS requirements or other causes beyond the provider's control;

(3) Are new costs that were not factored into the applicable compensation formula; and

(4) If unrecovered, would cause a provider's current allowable-expenses-plus-operating margin to exceed its revenues.

[87 FR 42660, July 18, 2022]

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Bell Operating Companies; Telephone Operator Services

§ 64.702 Furnishing of enhanced services and customer-premises equipment.

(a) For the purpose of this subpart, the term *enhanced service* shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. Enhanced services are not regulated under title II of the Act.

(b) Bell Operating Companies common carriers subject, in whole or in part, to the Communications Act may directly provide enhanced services and customer-premises equipment; provided, however, that the Commission may prohibit any such common carrier from engaging directly or indirectly in

furnishing enhanced services or customer-premises equipment to others except as provided for in paragraph (c) of this section, or as otherwise authorized by the Commission.

(c) A Bell Operating Company common carrier prohibited by the Commission pursuant to paragraph (b) of this section from engaging in the furnishing of enhanced services or customer-premises equipment may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with, a separate corporate entity that furnishes enhanced services or customer-premises equipment to others provided the following conditions are met:

(1) Each such separate corporation shall obtain all transmission facilities necessary for the provision of enhanced services pursuant to tariff, and may not own any network or local distribution transmission facilities or equipment.

(2) Each such separate corporation shall operate independently in the furnishing of enhanced services and customer-premises equipment. It shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer facilities in the provision of enhanced services.

(3) Each such separate corporation which provides customer-premises equipment or enhanced services shall deal with any affiliated manufacturing entity only on an arm's length basis.

(4) Any research or development performed on a joint or separate basis for the subsidiary must be done on a compensatory basis. Except for generic software within equipment, manufactured by an affiliate, that is sold ''off the shelf'' to any interested purchaser, the separate corporation must develop its own software, or contract with non-affiliated vendors.

(5) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement, or other arrangement entered into between such entities shall be filed with the Commission within 30 days after the contract, agreement, or other arrangement is made. This provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(d) A carrier subject to the proscription set forth in paragraph (c) of this section:

(1) Shall not engage in the sale or promotion of enhanced services or customer-premises equipment, on behalf of the separate corporation, or sell, lease or otherwise make available to the separate corporation any capacity or computer system component on its computer system or systems which are used in any way for the provision of its common carrier communications services. (This does not apply to communications services offered the separate subsidiary pursuant to tariff);

(2) Shall disclose to the public all information relating to network design and technical standards and information affecting changes to the telecommunications network which would affect either intercarrier interconnection or the manner in which customer-premises equipment is attached to the interstate network prior to implementation and with reasonable advance notification. Such information shall be disclosed in compliance with the procedures set forth in 47 CFR 51.325 through 51.335.

(3) [Reserved]

(4) Must obtain Commission approval as to the manner in which the separate corporation is to be capitalized, prior to obtaining any interest in the separate corporation or transferring any assets, and must obtain Commission approval of any modification to a Commission approved capitalization plan.

(e) Except as otherwise ordered by the Commission, the carrier provision of customer premises equipment used

in conjunction with the interstate telecommunications network may be offered in combination with the provision of common carrier communications services, except that the customer premises equipment shall not be offered on a tariffed basis.

[45 FR 31364, May 13, 1980, as amended at 46 FR 6008, Jan. 21, 1981; 63 FR 20338, Apr. 24, 1998; 64 FR 14148, Mar. 24, 1999; 66 FR 19402, Apr. 16, 2001]

§ 64.703 Consumer information.

(a) Each provider of operator services shall:

(1) Identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(2) Permit the consumer to terminate the telephone call at no charge before the call is connected;

(3) Disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) A quotation of its rates or charges for the call;

(ii) The methods by which such rates or charges will be collected; and

(iii) The methods by which complaints concerning such rates, charges, or collection practices will be resolved; and

(4) Disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate non-access code operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further oral advice to the consumer on how to proceed to make the call. The oral disclosure required in this subsection shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than two digits or by remaining on the line. The phrase ''total cost of the call'' as used in this paragraph means both the variable (duration-based) charges for the call and the total per-call charges, exclusive of taxes, that the carrier, or its billing agent, may collect from the consumer for the call. It does not include additional charges that may be assessed and collected without the involvement of the carrier, such as a hotel surcharge billed by a hotel. Such charges are addressed in paragraph (b) of this section.

(b) Each aggregator shall post on or near the telephone instrument, in plain view of consumers:

(1) The name, address, and toll-free telephone number of the provider of operator services;

(2) Except for CMRS aggregators, a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone;

(3) In the case of a pay telephone, the local coin rate for the pay telephone location; and

(4) The name and address of the Consumer Information Bureau of the Commission (Federal Communications Commission, Consumer Information Bureau, Consumer Complaints—Telephone, Washington, D.C. 20554), to which the consumer may direct complaints regarding operator services. An existing posting that displays the address that was required prior to the amendment of this rules (*i.e.*, the address of the Common Carrier Bureau's Enforcement Division, which no longer exists) may remain until such time as the posting is replaced for any other purpose. Any posting made after the effective date of this amendment must display the updated address (*i.e.*, the address of the Consumer Information Bureau).

(c) *Updating of postings.* The posting required by this section shall be updated as soon as practicable following any change of the carrier presubscribed to provide interstate service at an aggregator location, but no later than 30 days following such change. This requirement may be satisfied by applying to a payphone a temporary sticker displaying the required posting information, provided that any such temporary sticker shall be replaced with permanent signage during the next regularly scheduled maintenance visit.

(d) *Effect of state law or regulation.* The requirements of paragraph (b) of this section shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (b) of this section.

(e) Each provider of operator services shall ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

[56 FR 18523, Apr. 23, 1991, as amended at 61 FR 14981, Apr. 4, 1996; 61 FR 52323, Oct. 7, 1996; 63 FR 11617, Mar. 10, 1998; 63 FR 43041, Aug. 11, 1998; 64 FR 47119, Aug. 30, 1999; 67 FR 2819, Jan. 22, 2002]

§ 64.704 Call blocking prohibited.

(a) Each aggregator shall ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use ''800'' and ''950'' access code numbers to obtain access to the provider of operator services desired by the consumer.

(b) Each provider of operator services shall:

(1) Ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraphs (a) and (c) of this section; and

(2) Withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator is blocking access to interstate common carriers in violation of paragraphs (a) or (c) of this section.

(c) Each aggregator shall, by the earliest applicable date set forth in this paragraph, ensure that any of its equipment presubscribed to a provider of operator services allows the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(1) Each pay telephone shall, within six (6) months of the effective date of this paragraph, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(2) All equipment that is technologically capable of identifying the dialing of an equal access code followed by any sequence of numbers that will result in billing to the originating telephone and that is technologically capable of blocking access through such dialing sequences without blocking access through other dialing sequences involving equal access codes, shall, within six (6) months of the effective date of this paragraph or upon installation, whichever is sooner, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(3) All equipment or software that is manufactured or imported on or after April 17, 1992, and installed by any aggregator shall, immediately upon installation by the aggregator, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(4) All equipment that can be modified at a cost of no more than $15.00 per line to be technologically capable of identifying the dialing of an equal access code followed by any sequence of numbers that will result in billing to the originating telephone and to be technologically capable of blocking access through such dialing sequences without blocking access through other dialing sequences involving equal access codes, shall, within eighteen (18) months of the effective date of this paragraph, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(5) All equipment not included in paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section shall, no later than April 17, 1997, allow the consumer to use equal access codes to obtain access to the consumer's desired provider of operator services.

(6) This paragraph does not apply to the use by consumers of equal access code dialing sequences that result in billing to the originating telephone.

(d) All providers of operator services, except those employing a store-and-forward device that serves only consumers at the location of the device, shall establish an ''800'' or ''950'' access code number within six (6) months of the effective date of this paragraph.

(e) The requirements of this section shall not apply to CMRS aggregators and providers of CMRS operator services.

[56 FR 18523, Apr. 23, 1991, as amended at 56 FR 40799, Aug. 16, 1991; 57 FR 34260, Aug. 4, 1992; 63 FR 43041, Aug. 11, 1998]

§ 64.705 Restrictions on charges related to the provision of operator services.

(a) A provider of operator services shall:

(1) Not bill for unanswered telephone calls in areas where equal access is available;

(2) Not knowingly bill for unanswered telephone calls where equal access is not available;

(3) Not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

(4) Except as provided in paragraph (a)(3) of this section, not bill for a call that does not reflect the location of the origination of the call; and

(5) Ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of paragraph (b) of this section.

(b) An aggregator shall ensure that no charge by the aggregator to the consumer for using an ''800'' or ''950'' access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

(c) The requirements of paragraphs (a)(5) and (b) of this section shall not apply to CMRS aggregators and providers of CMRS operator services.

[56 FR 18523, Apr. 23, 1991, as amended at 63 FR 43041, Aug. 11, 1998]

§ 64.706 Minimum standards for the routing and handling of emergency telephone calls.

Upon receipt of any emergency telephone call, providers of operator services and aggregators shall ensure immediate connection of the call to the appropriate emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call.

[61 FR 14981, Apr. 4, 1996]

§ 64.707 Public dissemination of information by providers of operator services.

Providers of operator services shall regularly publish and make available at no cost to inquiring consumers written materials that describe any recent changes in operator services and in the choices available to consumers in that market.

[56 FR 18524, Apr. 23, 1991]

§ 64.708 Definitions.

As used in §§ 64.703 through 64.707 of this part and § 68.318 of this chapter (47 CFR 64.703–64.707, 68.318):

(a) *Access code* means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence;

(b) *Aggregator* means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

(c) *Call splashing* means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location;

(d) *CMRS aggregator* means an aggregator that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises for interstate telephone calls using a provider of CMRS operator services;

(e) *CMRS operator services* means operator services provided by means of a commercial mobile radio service as defined in section 20.3 of this chapter.

(f) *Consumer* means a person initiating any interstate telephone call

using operator services. In collect calling arrangements handled by a provider of operator services, the term consumer also includes the party on the terminating end of the call. For bill-to-third-party calling arrangements handled by a provider of operator services, the term consumer also includes the party to be billed for the call if the latter is contacted by the operator service provider to secure billing approval.

(g) *Equal access* has the meaning given that term in Appendix B of the Modification of Final Judgment entered by the United States District Court on August 24, 1982, in *United States* v. *Western Electric*, Civil Action No. 82–0192 (D.D.C. 1982), as amended by the Court in its orders issued prior to October 17, 1990;

(h) *Equal access code* means an access code that allows the public to obtain an equal access connection to the carrier associated with that code;

(i) *Operator services* means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than:

(1) Automatic completion with billing to the telephone from which the call originated; or

(2) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer;

(j) *Presubscribed provider of operator services* means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code;

(k) *Provider of CMRS operator services* means a provider of operator services that provides CMRS operator services;

(l) *Provider of operator services* means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

[56 FR 18524, Apr. 23, 1991; 56 FR 25721, June 5, 1991, as amended at 61 FR 14981, Apr. 4, 1996; 63 FR 43041, Aug. 11, 1998; 67 FR 2820, Jan. 22, 2002]

§ 64.709 Informational tariffs.

(a) Informational tariffs filed pursuant to 47 U.S.C. 226(h)(1)(A) shall contain specific rates expressed in dollars and cents for each interstate operator service of the carrier and shall also contain applicable per call aggregator surcharges or other per-call fees, if any, collected from consumers by, or on behalf of, the carrier.

(b) Per call fees, if any, billed on behalf of aggregators or others, shall be specified in informational tariffs in dollars and cents.

(c) In order to remove all doubt as to their proper application, all informational tariffs must contain clear and explicit explanatory statements regarding the rates, *i.e.*, the tariffed price per unit of service, and the regulations governing the offering of service in that tariff.

(d) Informational tariffs shall be accompanied by a cover letter, addressed to the Secretary of the Commission, explaining the purpose of the filing.

(1) The original of the cover letter shall be submitted to the Secretary without attachments, along with FCC Form 159, and the appropriate fee to the address set forth in §1.1105 of this chapter.

(2) Carriers should file informational tariffs and associated documents, such as cover letters and attachments, electronically in accordance with §§61.13 and 61.14 of this chapter.

(e) Any changes to the tariff shall be submitted under a new cover letter with a complete copy of the tariff, including changes.

(1) Changes to a tariff shall be explained in the cover letter but need not be symbolized on the tariff pages.

(2) Revised tariffs shall be filled pursuant to the procedures specified in this section.

[63 FR 11617, Mar. 10, 1998; 63 FR 15316, Mar. 31, 1998, as amended at 67 FR 2820, Jan. 22, 2002; 73 FR 9031, Feb. 19, 2008; 76 FR 43217, July 20, 2011]

§ 64.710 Operator services for prison inmate phones.

(a) Each provider of inmate operator services shall:

(1) Identify itself and disclose, audibly and distinctly to the consumer, at no charge and before connecting any

interstate, non-access code operator service call, how to obtain the total cost of the call, including any surcharge or premises-imposed-fee. The oral disclosure required in this paragraph shall instruct consumers that they may obtain applicable rate and surcharge quotations either, at the option of the provider of inmate operator services, by dialing no more than two digits or by remaining on the line. The phrase ''total cost of the call,'' as used in this paragraph, means both the variable (duration-based) charges for the call and the total per-call charges, exclusive of taxes, that the carrier, or its billing agent, may collect from the consumer for the call. Such phrase shall include any per-call surcharge imposed by the correctional institution, unless it is subject to regulation itself as a common carrier for imposing such surcharges, if the contract between the carrier and the correctional institution prohibits both resale and the use of pre-paid calling card arrangements.

(2) Permit the consumer to terminate the telephone call at no charge before the call is connected; and

(3) Disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) The methods by which its rates or charges for the call will be collected; and

(ii) The methods by which complaints concerning such rates, charges or collection practices will be resolved.

(b) As used in this subpart:

(1) *Consumer* means the party to be billed for any interstate call from an inmate telephone;

(2) *Inmate telephone* means a telephone instrument set aside by authorities of a prison or other correctional institution for use by inmates.

(3) *Inmate operator services* means any interstate telecommunications service initiated from an inmate telephone that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than:

(i) Automatic completion with billing to the telephone from which the call originated; or

(ii) Completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer;

(4) *Provider of inmate operator services* means any common carrier that provides outbound interstate operator services from inmate telephones.

[63 FR 11617, Mar. 10, 1998, as amended at 67 FR 2820, Jan. 22, 2002]

Subpart H—Extension of Unsecured Credit for Interstate and Foreign Communications Services to Candidates for Federal Office

AUTHORITY: Secs. 4, 201, 202, 203, 218, 219, 48 Stat. 1066, 1070, 1077; 47 U.S.C. 154, 201, 202, 203, 218, 219; sec. 401, 86 Stat. 19; 2 U.S.C. 451.

SOURCE: 37 FR 9393, May 10, 1972, unless otherwise noted.

§ 64.801 Purpose.

Pursuant to section 401 of the Federal Election Campaign Act of 1971, Public Law 92–225, these rules prescribe the general terms and conditions for the extension of unsecured credit by a communication common carrier to a candidate or person on behalf of such candidate for Federal office.

§ 64.802 Applicability.

These rules shall apply to each communication common carrier subject to the whole or part of the Communications Act of 1934, as amended.

§ 64.803 Definitions.

For the purposes of this subpart:

(a) *Candidate* means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

(b) *Election* means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, and (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(c) *Federal office* means the office of President or Vice President of the United States: or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *Person* means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

(e) *Unsecured credit* means the furnishing of service without maintaining on a continuing basis advance payment, deposit, or other security, that is designed to assure payment of the estimated amount of service for each future 2 months period, with revised estimates to be made on at least a monthly basis.

§ 64.804 Rules governing the extension of unsecured credit to candidates or persons on behalf of such candidates for Federal office for interstate and foreign common carrier communication services.

(a) There is no obligation upon a carrier to extend unsecured credit for interstate and foreign communication services to a candidate or person on behalf of such candidate for Federal office. However, if the carrier chooses to extend such unsecured credit, it shall comply with the requirements set forth in paragraphs (b) through (g) of this section.

(b) If a carrier decides to extend unsecured credit to any candidate for Federal office or any person on behalf of such candidate, then unsecured credit shall be extended on substantially equal terms and conditions to all candidates and all persons on behalf of all candidates for the same office, with due regard for differences in the estimated quantity of service to be furnished each such candidate or person.

[37 FR 9393, May 10, 1972, as amended at 62 FR 5166, Feb. 4, 1997; 82 FR 48778, Oct. 20, 2017]

Subpart I—Allocation of Costs

§ 64.901 Allocation of costs.

(a) Carriers required to separate their regulated costs from nonregulated costs shall use the attributable cost method of cost allocation for such purpose.

(b) In assigning or allocating costs to regulated and nonregulated activities, carriers shall follow the principles described herein.

(1) Tariffed services provided to a nonregulated activity will be charged to the nonregulated activity at the tariffed rates and credited to the regulated revenue account for that service. Nontariffed services, offered pursuant to a section 252(e) agreement, provided to a nonregulated activity will be charged to the nonregulated activity at the amount set forth in the applicable interconnection agreement approved by a state commission pursuant to section 252(e) and credited to the regulated revenue account for that service.

(2) Costs shall be directly assigned to either regulated or nonregulated activities whenever possible.

(3) Costs which cannot be directly assigned to either regulated or nonregulated activities will be described as common costs. Common costs shall be grouped into homogeneous cost categories designed to facilitate the proper allocation of costs between a carrier's regulated and nonregulated activities. Each cost category shall be allocated between regulated and nonregulated activities in accordance with the following hierarchy:

(i) Whenever possible, common cost categories are to be allocated based upon direct analysis of the origin of the cost themselves.

(ii) When direct analysis is not possible, common cost categories shall be allocated based upon an indirect, cost-causative linkage to another cost category (or group of cost categories) for which a direct assignment or allocation is available.

(iii) When neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated based upon a general allocator computed by using the ratio of all expenses directly assigned or attributed to regulated and nonregulated activities.

(4) The allocation of central office equipment and outside plant investment costs between regulated and nonregulated activities shall be based upon the relative regulated and nonregulated usage of the investment during the calendar year when nonregulated usage is greatest in comparison to regulated usage during the three calendar years beginning with the calendar year during which the investment usage forecast is filed.

(c) A telecommunications carrier may not use services that are not competitive to subsidize services subject to competition. Services included in the definition of universal service shall bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

[52 FR 6560, Mar. 4, 1987, as amended at 52 FR 39534, Oct. 22, 1987; 54 FR 49762, Dec. 1, 1989; 62 FR 45588, Aug. 28, 1997; 67 FR 5702, Feb. 6, 2002]

§ 64.902 Transactions with affiliates.

Except for carriers which employ average schedules in lieu of determining their costs, all carriers subject to § 64.901 are also subject to the provisions of § 32.27 of this chapter concerning transactions with affiliates.

[55 FR 30461, July 26, 1990]

§ 64.903 Cost allocation manuals.

(a) Each incumbent local exchange carrier having annual revenues from regulated telecommunications operations that are equal to or above the indexed revenue threshold (as defined in § 32.9000 of this chapter) except midsized incumbent local exchange carriers is required to file a cost allocation manual describing how it separates regulated from nonregulated costs. The manual shall contain the following information regarding the carrier's allocation of costs between regulated and nonregulated activities:

(1) A description of each of the carrier's nonregulated activities;

(2) A list of all the activities to which the carrier now accords incidental accounting treatment and the justification therefor;

(3) A chart showing all of the carrier's corporate affiliates;

(4) A statement identifying each affiliate that engages in or will engage in transactions with the carrier and describing the nature, terms and frequency of each transaction;

(5) A cost apportionment table showing, for each account containing costs incurred in providing regulated services, the cost pools with that account, the procedures used to place costs into each cost pool, and the method used to apportion the costs within each cost pool between regulated and nonregulated activities; and

(6) A description of the time reporting procedures that the carrier uses, including the methods or studies designed to measure and allocate nonproductive time.

(b) Each carrier shall ensure that the information contained in its cost allocation manual is accurate. Carriers must update their cost allocation manuals at least annually, except that changes to the cost apportionment table and to the description of time reporting procedures must be filed at the time of implementation. Annual cost allocation manual updates shall be filed on or before the last working day of each calendar year. Proposed changes in the description of time reporting procedures, the statement concerning affiliate transactions, and the cost apportionment table must be accompanied by a statement quantifying the impact of each change on regulated operations. Changes in the description of time reporting procedures and the statement concerning affiliate transactions must be quantified in $100,000 increments at the account level. Changes in cost apportionment tables must be quantified in $100,000 increments at the cost pool level. The Chief, Wireline Competition Bureau may suspend any such changes for a period not to exceed 180 days, and may thereafter allow the change to become effective or prescribe a different procedure.

(c) The Commission may by order require any other communications common carrier to file and maintain a cost allocation manual as provided in this section.

[57 FR 4375, Feb. 5, 1992, as amended at 59 FR 46358, Sept. 8, 1994; 61 FR 50246, Sept. 25, 1996; 62 FR 39779, July 24, 1997; 65 FR 16335, Mar. 28, 2000; 67 FR 5702, Feb. 6, 2002; 67 FR 13229, Mar. 21, 2002]

§ 64.904 Independent audits.

(a) Each carrier required to file a cost allocation manual shall elect to either have an attest engagement performed by an independent auditor every two years, covering the prior two year period, or have a financial audit performed by an independent auditor every two years, covering the prior two year period. In either case, the initial engagement shall be performed in the calendar year after the carrier is first required to file a cost allocation manual.

(b) The attest engagement shall be an examination engagement and shall provide a written communication that expresses an opinion that the systems, processes, and procedures applied by the carrier to generate the results reported pursuant to §43.21(e)(2) of this chapter comply with the Commission's Joint Cost Orders issued in conjunction with CC Docket No. 86–111, the Commission's Accounting Safeguards proceeding in CC Docket No. 96–150, and the Commission's rules and regulations including §§32.23 and 32.27 of this chapter, and §§64.901, and 64.903 in force as of the date of the auditor's report. At least 30 days prior to beginning the attestation engagement, the independent auditors shall provide the Commission with the audit program. The attest engagement shall be conducted in accordance with the attestation standards established by the American Institute of Certified Public Accountants, except as otherwise directed by the Chief, Enforcement Bureau.

(c) The biennial financial audit shall provide a positive opinion on whether the applicable date shown in the carrier's annual report required by §43.21(e)(2) of this chapter present fairly, in all material respects, the information of the Commission's Joint Cost Orders issued in conjunction with CC Docket No. 86–111, the Commission's Accounting Safeguards proceeding in CC Docket No. 96–150, and the Commission's rules and regulations including §§32.23 and 32.27 of this chapter, and §§64.901, and 64.903 in force as of the date of the auditor's report. The audit shall be conducted in accordance with generally accepted auditing standards, except as otherwise directed by the Chief, Enforcement Bureau. The report of the independent auditor shall be filed at the time that the carrier files the annual reports required by §43.21(e)(2) of this chapter.

[67 FR 5702, Feb. 6, 2002, as amended at 67 FR 13229, Mar. 21, 2002]

§ 64.905 Annual certification.

A mid-sized incumbent local exchange carrier, as defined in §32.9000 of this chapter, shall file a certification with the Commission stating that it is complying with §64.901. The certification must be signed, under oath, by an officer of the mid-sized incumbent LEC, and filed with the Commission on an annual basis at the time that the mid-sized incumbent LEC files the annual reports required by §43.21(e)(2) of this chapter.

[67 FR 5702, Feb. 6, 2002]

Subpart J—Recovery of Investments and Expenses in Regulated Interstate Rates

SOURCE: 83 FR 18965, May 1, 2018, unless otherwise noted.

§ 64.1000 Scope.

This subpart is applicable only to rate-of-return carriers as defined in §54.5 of this chapter receiving Connect America Fund Broadband Loop Support as described in §54.901 of this chapter.

§ 64.1001 Purpose.

This subpart is intended to ensure that only used and useful investments and expenses are recovered through regulated interstate rates pursuant to section 201(b) of the Communications Act as amended (the Act), 47 U.S.C. 201(b).

§ 64.1002 Investments and expenses.

(a) *Investment and expenses not used and useful in the ordinary course.* The following investments and expenses are presumed not used and useful (and thus unreasonable):

(1) Personal expenses, including but not limited to personal expenses for food and beverages, housing, such as rent or mortgages, vehicles for personal use, and personal travel;

(2) Tangible property not logically related or necessary to offering voice or broadband services;

(3) Political contributions;

(4) Membership fees and dues in social, service and recreational, or athletic clubs or organizations;

(5) Penalties or fines for statutory or regulatory violations; and

(6) Penalties or fees for late payments on debt, loans, or other payments.

(b) *Non-customary investments and expenses.* Unless customary for similarly situated companies, the following investments and expenses are presumed not used and useful (and thus unreasonable):

(1) Personal benefits, such as gifts, housing allowances, and childcare, that are not part of taxable compensation;

(2) Artwork and other objects that possess aesthetic value that are displayed in the workplace;

(3) Aircraft, watercraft, and off-road vehicles used for work and work-related purposes;

(4) Cafeterias and dining facilities;

(5) Charitable donations;

(6) Entertainment;

(7) Food and beverage expenses for work and work-related travel;

(8) Membership fees and dues associated with professional organizations;

(9) Scholarships; and

(10) Sponsorships of conferences or community events.

Subpart K—Changes in Preferred Telecommunications Service Providers

§ 64.1100 Definitions.

(a) The term *submitting carrier* is generally any telecommunications carrier that requests on the behalf of a subscriber that the subscriber's telecommunications carrier be changed, and seeks to provide retail services to the end user subscriber. A carrier may be treated as a submitting carrier, however, if it is responsible for any unreasonable delays in the submission of carrier change requests or for the submission of unauthorized carrier change requests, including fraudulent authorizations.

(b) The term *executing carrier* is generally any telecommunications carrier that effects a request that a subscriber's telecommunications carrier be changed. A carrier may be treated as an executing carrier, however, if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations.

(c) The term *authorized carrier* is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service with the subscriber's authorization verified in accordance with the procedures specified in this part.

(d) The term *unauthorized carrier* is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service but fails to obtain the subscriber's authorization verified in accordance with the procedures specified in this part.

(e) The term *unauthorized change* is a change in a subscriber's selection of a provider of telecommunications service that was made without authorization verified in accordance with the verification procedures specified in this part.

(f) The term *state commission* shall include any state entity with the state-designated authority to resolve the complaints of such state's residents arising out of an allegation that an unauthorized change of a telecommunication service provider has occurred that has elected, in accordance with the requirements of § 64.1110(a), to administer the Federal Communications Commission's slamming rules and remedies, as enumerated in §§ 64.1100 through 64.1190.

(g) The term *relevant governmental agency* shall be the state commission if the complainant files a complaint with the state commission or if the complaint is forwarded to the state commission by the Federal Communications Commission, and the Federal Communications Commission if the complainant files a complaint with the Federal Communications Commission, and the complaint is not forwarded to a state commission.

(h) The term *subscriber* is any one of the following:

(1) The party identified in the account records of a common carrier as responsible for payment of the telephone bill;

(2) Any adult person authorized by such party to change telecommunications services or to charge services to the account; or

(3) Any person contractually or otherwise lawfully authorized to represent such party.

[65 FR 47690, Aug. 3, 2000, as amended at 66 FR 12892, Mar. 1, 2001]

§ 64.1110 State notification of election to administer FCC rules.

(a) *Initial Notification.* State notification of an intention to administer the Federal Communications Commission's unauthorized carrier change rules and remedies, as enumerated in §§ 64.1100 through 64.1190, shall be filed with the Commission Secretary in CC Docket No. 94–129 with a copy of such notification provided to the Consumer & Governmental Affairs Bureau Chief. Such notification shall contain, at a minimum, information on where consumers should file complaints, the type of documentation, if any, that must accompany a complaint, and the procedures the state will use to adjudicate complaints.

(b) *Withdrawal of Notification.* State notification of an intention to discontinue administering the Federal Communications Commission's unauthorized carrier change rules and remedies, as enumerated in §§ 64.1100 through 64.1190, shall be filed with the Commission Secretary in CC Docket No. 94–129 with a copy of such amended notification provided to the Consumer & Governmental Affairs Bureau Chief. Such discontinuance shall become effective 60 days after the Commission's receipt of the state's letter.

[65 FR 47691, Aug. 3, 2000, as amended at 73 FR 13149, Mar. 12, 2008]

§ 64.1120 Verification of orders for telecommunications service.

(a) No telecommunications carrier shall submit or execute a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service except in accordance with the procedures prescribed in this subpart. Nothing in this section shall preclude any State commission from enforcing these procedures with respect to intrastate services.

(1) No submitting carrier shall submit a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service prior to obtaining:

(i) Authorization from the subscriber, subject to the following:

(A) Material misrepresentation on the sales call is prohibited. Upon a consumer's credible allegation of a sales call misrepresentation, the burden of proof shifts to the carrier making the sales call to provide persuasive evidence to rebut the claim. Upon a finding that such a material misrepresentation has occurred on a sales call, the subscriber's authorization to switch carriers will be deemed invalid.

(B) [Reserved]

(ii) Verification of that authorization in accordance with the procedures prescribed in this section. The submitting carrier shall maintain and preserve records of verification of subscriber authorization for a minimum period of two years after obtaining such verification.

(2) An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.

(3) Commercial mobile radio services (CMRS) providers shall be excluded from the verification requirements of

this part as long as they are not required to provide equal access to common carriers for the provision of telephone toll services, in accordance with 47 U.S.C. 332(c)(8).

(b) Any telecommunications carrier that becomes the subject of a Commission forfeiture action through a violation of the third-party verification process set forth in paragraph (c)(3) of this section will be suspended for a five-year period from utilizing the third-party verification process to confirm a carrier change.

(c) No telecommunications carrier shall submit a preferred carrier change order unless and until the order has been confirmed in accordance with one of the following procedures:

(1) The telecommunications carrier has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of § 64.1130; or

(2) The telecommunications carrier has obtained the subscriber's electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information in paragraph (a)(1) of this section. Telecommunications carriers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism, that records the required information regarding the preferred carrier change, including automatically recording the originating automatic number identification; or

(3) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, the subscriber's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (e.g., the subscriber's date of birth or social security number). The independent third party must not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; must not have any financial incentive to confirm preferred carrier change orders for the carrier or the carrier's marketing agent; and must operate in a location physically separate from the carrier or the carrier's marketing agent.

(i) *Methods of third party verification.* Automated third party verification systems and three-way conference calls may be used for verification purposes so long as the requirements of paragraphs (c)(3)(ii) through (c)(3)(iv) of this section are satisfied.

(ii) *Carrier initiation of third party verification.* A carrier or a carrier's sales representative initiating a three-way conference call or a call through an automated verification system must drop off the call once the three-way connection has been established.

(iii) *Requirements for content and format of third party verification.* Any description of the carrier change transaction by a third party verifier must not be misleading, and all third party verification methods shall elicit, at a minimum: The date of the verification; the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the carrier change; confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized; the names of the carriers affected by the change (not including the name of the displaced carrier); the telephone numbers to be switched; and the types of service involved (including a brief description of a service about which the subscriber demonstrates confusion regarding the nature of that service). Except in Hawaii, any description of interLATA or long distance service shall convey that it encompasses both international and state-to-state calls, as well as some intrastate calls where applicable. If the subscriber has additional questions for the carrier's sales representative during the verification, the verifier shall indicate to the subscriber that, upon completion of the verification process, the subscriber will have authorized a carrier change. Third party verifiers may not market the carrier's services by

providing additional information, including information regarding preferred carrier freeze procedures.

(iv) *Other requirements for third party verification.* All third party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. In accordance with the procedures set forth in 64.1120(a)(1)(ii), submitting carriers shall maintain and preserve audio records of verification of subscriber authorization for a minimum period of two years after obtaining such verification. Automated systems must provide consumers with an option to speak with a live person at any time during the call.

(4) Any State-enacted verification procedures applicable to intrastate preferred carrier change orders only.

(d) Telecommunications carriers must provide subscribers the option of using one of the authorization and verification procedures specified in § 64.1120(c) in addition to an electronically signed authorization and verification procedure under 64.1120(c)(1).

(e) A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunica- tions carrier's subscriber base without obtaining each subscriber's authorization and verification in accordance with § 64.1120(c), provided that the acquiring carrier complies with the following streamlined procedures. A telecommunications carrier may not use these streamlined procedures for any fraudulent purpose, including any attempt to avoid liability for violations under part 64, subpart K of the Commission rules.

(1) No later than 30 days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the Commission's Office of the Secretary a letter notification in CC Docket No. 00–257 providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier. In the letter notification, the acquiring carrier also shall certify compliance with the requirement to provide advance subscriber notice in accordance with § 64.1120(e)(3), with the obligations specified in that notice, and with other statutory and Commission requirements that apply to this streamlined process. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected subscribers.

(2) If, subsequent to the filing of the letter notification with the Commission required by § 64.1120(e)(1), any material changes to the required information should develop, the acquiring carrier shall file written notification of these changes with the Commission no more than 10 days after the transfer date announced in the prior notification. The Commission reserves the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes.

(3) Not later than 30 days before the transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected subscriber of the information specified. The acquiring carrier is required to fulfill the obligations set forth in the advance subscriber notice. The advance subscriber notice shall be provided in a manner consistent with 47 U.S.C. 255 and the Commission's rules regarding accessibility to blind and visually-impaired consumers, 47 CFR 6.3, 6.5 of this chapter. The following information must be included in the advance subscriber notice:

(i) The date on which the acquiring carrier will become the subscriber's new provider of telecommunications service,

(ii) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the subscriber's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the subscriber of any change(s) to these rates, terms, and conditions.

(iii) The acquiring carrier will be responsible for any carrier change charges associated with the transfer, except where the carrier is acquiring customers by default, other than

through bankruptcy, and state law requires the exiting carrier to pay these costs;

(iv) The subscriber's right to select a different preferred carrier for the telecommunications service(s) at issue, if an alternative carrier is available,

(v) All subscribers receiving the notice, even those who have arranged preferred carrier freezes through their local service providers on the service(s) involved in the transfer, will be transferred to the acquiring carrier, unless they have selected a different carrier before the transfer date; existing preferred carrier freezes on the service(s) involved in the transfer will be lifted; and the subscribers must contact their local service providers to arrange a new freeze.

(vi) Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier, and

(vii) The toll-free customer service telephone number of the acquiring carrier.

[65 FR 47691, Aug. 3, 2000, as amended at 66 FR 12892, Mar. 1, 2001; 66 FR 28124, May 22, 2001; 68 FR 19159, Apr. 18, 2003; 70 FR 12611, Mar. 15, 2005; 73 FR 13149, Mar. 12, 2008; 83 FR 33143, July 17, 2018]

§ 64.1130 Letter of agency form and content.

(a) A telecommunications carrier may use a written or electronically signed letter of agency to obtain authorization and/or verification of a subscriber's request to change his or her preferred carrier selection. A letter of agency that does not conform with this section is invalid for purposes of this part.

(b) The letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or webpage containing only the authorizing language described in paragraph (e) of this section having the sole purpose of authorizing a telecommunications carrier to initiate a preferred carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the preferred carrier change.

(c) The letter of agency shall not be combined on the same document, screen, or webpage with inducements of any kind.

(d) Notwithstanding paragraphs (b) and (c) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in paragraph (e) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(e) At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

(1) The subscriber's billing name and address and each telephone number to be covered by the preferred carrier change order;

(2) The decision to change the preferred carrier from the current telecommunications carrier to the soliciting telecommunications carrier;

(3) That the subscriber designates [insert the name of the submitting carrier] to act as the subscriber's agent for the preferred carrier change;

(4) That the subscriber understands that only one telecommunications carrier may be designated as the subscriber's interstate or interLATA preferred interexchange carrier for any one telephone number. To the extent that a jurisdiction allows the selection of additional preferred carriers (e.g., local exchange, intraLATA toll, interLATA toll, or international interexchange), the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

(5) That the subscriber may consult with the carrier as to whether a fee will apply to the change in the subscriber's preferred carrier.

(f) Any carrier designated in a letter of agency as a preferred carrier must be the carrier directly setting the rates for the subscriber.

(g) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications carrier.

(h) If any portion of a letter of agency is translated into another language then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

(i) Letters of agency submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act.

(j) A telecommunications carrier shall submit a preferred carrier change order on behalf of a subscriber within no more than 60 days of obtaining a written or electronically signed letter of agency. However, letters of agency for multi-line and/or multi-location business customers that have entered into negotiated agreements with carriers to add presubscribed lines to their business locations during the course of a term agreement shall be valid for the period specified in the term agreement.

[64 FR 7760, Feb. 16, 1999. Redesignated at 65 FR 47692, Aug. 3, 2000, as amended at 66 FR 12893, Mar. 1, 2001; 66 FR 16151, Mar. 23, 2001; 68 FR 19159, Apr. 18, 2003; 73 FR 13149, Mar. 12, 2008]

§ 64.1140 Carrier liability for slamming.

(a) *Carrier Liability for Charges.* Any submitting telecommunications carrier that fails to comply with the procedures prescribed in this part shall be liable to the subscriber's properly authorized carrier in an amount equal to 150% of all charges paid to the submitting telecommunications carrier by such subscriber after such violation, as well as for additional amounts as prescribed in § 64.1170. The remedies provided in this part are in addition to any other remedies available by law.

(b) *Subscriber Liability for Charges.* Any subscriber whose selection of telecommunications services provider is changed without authorization verified in accordance with the procedures set for in this part is liable for charges as follows:

(1) If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. Upon being informed by a subscriber that an unauthorized change has occurred, the authorized carrier, the unauthorized carrier, or the executing carrier shall inform the subscriber of this 30-day absolution period. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30–day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change in accordance with the provisions of § 64.1160(e).

(2) If the subscriber has already paid charges to the unauthorized carrier, and the authorized carrier receives payment from the unauthorized carrier as provided for in paragraph (a) of this section, the authorized carrier shall refund or credit to the subscriber any amounts determined in accordance with the provisions of § 64.1170(c).

(3) If the subscriber has been absolved of liability as prescribed by this section, the unauthorized carrier shall also be liable to the subscriber for any charge required to return the subscriber to his or her properly authorized carrier, if applicable.

[65 FR 47691, Aug. 3, 2000]

§ 64.1150 Procedures for resolution of unauthorized changes in preferred carrier.

(a) *Notification of alleged unauthorized carrier change.* Executing carriers who are informed of an unauthorized carrier change by a subscriber must immediately notify both the authorized and allegedly unauthorized carrier of the incident. This notification must include the identity of both carriers.

(b) *Referral of complaint.* Any carrier, executing, authorized, or allegedly unauthorized, that is informed by a subscriber or an executing carrier of an unauthorized carrier change shall direct that subscriber either to the state commission or, where the state commission has not opted to administer these rules, to the Federal Communications Commission's Consumer & Governmental Affairs Bureau, for resolution of the complaint. Carriers shall also inform the subscriber that he or she may contact and seek resolution from the alleged unauthorized carrier and, in addition, may contact the authorized carrier.

(c) *Notification of receipt of complaint.* Upon receipt of an unauthorized carrier change complaint, the relevant governmental agency will notify the allegedly unauthorized carrier of the complaint and order that the carrier remove all unpaid charges for the first 30 days after the slam from the subscriber's bill pending a determination of whether an unauthorized change, as defined by §64.1100(e), has occurred, if it has not already done so.

(d) *Proof of verification.* Not more than 30 days after notification of the complaint, or such lesser time as is required by the state commission if a matter is brought before a state commission, the alleged unauthorized carrier shall provide to the relevant government agency a copy of any valid proof of verification of the carrier change. This proof of verification must contain clear and convincing evidence of a valid authorized carrier change, as that term is defined in §§64.1120 through 64.1130. The relevant governmental agency will determine whether an unauthorized change, as defined by §64.1100(e), has occurred using such proof and any evidence supplied by the subscriber. Failure by the carrier to respond or provide proof of verification will be presumed to be clear and convincing evidence of a violation.

(e) *Election of forum.* The Federal Communications Commission will not adjudicate a complaint filed pursuant to §1.719 or §§1.720 through 1.736 of this chapter, involving an alleged unauthorized change, as defined by §64.1100(e), while a complaint based on the same set of facts is pending with a state commission.

[65 FR 47692, Aug. 3, 2000, as amended at 68 FR 19159, Apr. 18, 2003; 73 FR 13149, Mar. 12, 2008]

§64.1160 Absolution procedures where the subscriber has not paid charges.

(a) This section shall only apply after a subscriber has determined that an unauthorized change, as defined by §64.1100(e), has occurred and the subscriber has not paid charges to the allegedly unauthorized carrier for service provided for 30 days, or a portion thereof, after the unauthorized change occurred.

(b) An allegedly unauthorized carrier shall remove all charges incurred for service provided during the first 30 days after the alleged unauthorized change occurred, as defined by §64.1100(e), from a subscriber's bill upon notification that such unauthorized change is alleged to have occurred.

(c) An allegedly unauthorized carrier may challenge a subscriber's allegation that an unauthorized change, as defined by §64.1100(e), occurred. An allegedly unauthorized carrier choosing to challenge such allegation shall immediately notify the complaining subscriber that: The complaining subscriber must file a complaint with a State commission that has opted to administer the FCC's rules, pursuant to §64.1110, or the FCC within 30 days of either the date of removal of charges from the complaining subscriber's bill in accordance with paragraph (b) of this section, or the date the allegedly unauthorized carrier notifies the complaining subscriber of the requirements of this paragraph, whichever is later; and a failure to file such a complaint within this 30-day time period will result in the charges removed pursuant to paragraph (b) of this section being reinstated on the subscriber's bill and, consequently, the complaining subscriber will only be entitled to remedies for the alleged unauthorized change other than those provided for in §64.1140(b)(1). No allegedly unauthorized carrier shall reinstate charges to a subscriber's bill pursuant to the provisions of this paragraph without first

providing such subscriber with a reasonable opportunity to demonstrate that the requisite complaint was timely filed within the 30-day period described in this paragraph.

(d) If the relevant governmental agency determines after reasonable investigation that an unauthorized change, as defined by §64.1100(e), has occurred, an order shall be issued providing that the subscriber is entitled to absolution from the charges incurred during the first 30 days after the unauthorized carrier change occurred, and neither the authorized or unauthorized carrier may pursue any collection against the subscriber for those charges.

(e) The Federal Communications Commission will not adjudicate a complaint filed pursuant to §§1.719 or §§1.720–1.740 of this chapter, involving an alleged unauthorized change, as defined by §64.1100(e), while a complaint based on the same set of facts is pending with a state commission.

(f) If the unauthorized carrier received payment from the subscriber for services provided after the first 30 days after the unauthorized change occurred, the obligations for payments and refunds provided for in §64.1170 shall apply to those payments. If the relevant governmental agency determines after reasonable investigation that the carrier change was authorized, the carrier may re-bill the subscriber for charges incurred.

(g) When a LEC has assigned a subscriber to a carrier without authorization, and where the subscriber has not paid the unauthorized charges, the LEC shall switch the subscriber to the desired carrier at no cost to the subscriber, and shall also secure the removal of the unauthorized charges from the subscriber's bill in accordance with the procedures specified in paragraphs (a) through (f) of this section.

[65 FR 47692, Aug. 3, 2000, as amended at 68 FR 19159, Apr. 18, 2003; 73 FR 13149, Mar. 12, 2008; 83 FR 44843, Sept. 4, 2018]

§64.1170 Reimbursement procedures where the subscriber has paid charges.

(a) The procedures in this section shall only apply after a subscriber has determined that an unauthorized change, as defined by §64.1100(e), has occurred and the subscriber has paid charges to an allegedly unauthorized carrier.

(b) If the relevant governmental agency determines after reasonable investigation that an unauthorized change, as defined by §64.1100(e), has occurred, it shall issue an order directing the unauthorized carrier to forward to the authorized carrier the following, in addition to any appropriate state remedies:

(1) An amount equal to 150% of all charges paid by the subscriber to the unauthorized carrier; and

(2) Copies of any telephone bills issued from the unauthorized carrier to the subscriber. This order shall be sent to the subscriber, the unauthorized carrier, and the authorized carrier.

(c) Within ten days of receipt of the amount provided for in paragraph (b)(1) of this section, the authorized carrier shall provide a refund or credit to the subscriber in the amount of 50% of all charges paid by the subscriber to the unauthorized carrier. The subscriber has the option of asking the authorized carrier to re-rate the unauthorized carrier's charges based on the rates of the authorized carrier and, on behalf of the subscriber, seek an additional refund from the unauthorized carrier, to the extent that the re-rated amount exceeds the 50% of all charges paid by the subscriber to the unauthorized carrier. The authorized carrier shall also send notice to the relevant governmental agency that it has given a refund or credit to the subscriber.

(d) If an authorized carrier incurs billing and collection expenses in collecting charges from the unauthorized carrier, the unauthorized carrier shall reimburse the authorized carrier for reasonable expenses.

(e) If the authorized carrier has not received payment from the unauthorized carrier as required by paragraph (c) of this section, the authorized carrier is not required to provide any refund or credit to the subscriber. The authorized carrier must, within 45 days of receiving an order as described in paragraph (b) of this section, inform the subscriber and the relevant governmental agency that issued the order if the unauthorized carrier has failed to

forward to it the appropriate charges, and also inform the subscriber of his or her right to pursue a claim against the unauthorized carrier for a refund of all charges paid to the unauthorized carrier.

(f) Where possible, the properly authorized carrier must reinstate the subscriber in any premium program in which that subscriber was enrolled prior to the unauthorized change, if the subscriber's participation in that program was terminated because of the unauthorized change. If the subscriber has paid charges to the unauthorized carrier, the properly authorized carrier shall also provide or restore to the subscriber any premiums to which the subscriber would have been entitled had the unauthorized change not occurred. The authorized carrier must comply with the requirements of this section regardless of whether it is able to recover from the unauthorized carrier any charges that were paid by the subscriber.

(g) When a LEC has assigned a subscriber to a non-affiliated carrier without authorization, and when a subscriber has paid the non-affiliated carrier the charges for the billed service, the LEC shall reimburse the subscriber for all charges paid by the subscriber to the unauthorized carrier and shall switch the subscriber to the desired carrier at no cost to the subscriber. When a LEC makes an unauthorized carrier change to an affiliated carrier, and when the customer has paid the charges, the LEC must pay to the authorized carrier 150% of the amounts collected from the subscriber in accordance with paragraphs (a) through (f) of this section.

[65 FR 47693, Aug. 3, 2000, as amended at 68 FR 19159, Apr. 18, 2003]

§ 64.1190 Preferred carrier freezes.

(a) A preferred carrier freeze (or freeze) prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express consent. All local exchange carriers who offer preferred carrier freezes must comply with the provisions of this section.

(b) All local exchange carriers who offer preferred carrier freezes shall offer freezes on a nondiscriminatory basis to all subscribers, regardless of the subscriber's carrier selections.

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA toll, and interLATA toll) subject to a preferred carrier freeze. The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.

(d) *Solicitation and imposition of preferred carrier freezes.* (1) All carrier-provided solicitation and other materials regarding preferred carrier freezes must include:

(i) An explanation, in clear and neutral language, of what a preferred carrier freeze is and what services may be subject to a freeze;

(ii) A description of the specific procedures necessary to lift a preferred carrier freeze; an explanation that these steps are in addition to the Commission's verification rules in §§ 64.1120 and 64.1130 for changing a subscriber's preferred carrier selections; and an explanation that the subscriber will be unable to make a change in carrier selection unless he or she lifts the freeze.

(iii) An explanation of any charges associated with the preferred carrier freeze.

(2) No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

(i) The local exchange carrier has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements of § 64.1190(d)(3); or

(ii) The local exchange carrier has obtained the subscriber's electronic authorization, placed from the telephone number(s) on which the preferred carrier freeze is to be imposed, to impose a preferred carrier freeze. The electronic authorization should confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in §§ 64.1190(d)(3)(ii)(A) through (D). Telecommunications carriers electing to confirm preferred carrier

freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier freeze request, including automatically recording the originating automatic numbering identification; or

(iii) An appropriately qualified independent third party has obtained the subscriber's oral authorization to submit the preferred carrier freeze and confirmed the appropriate verification data (e.g., the subscriber's date of birth or social security number) and the information required in § 64.1190(d)(3)(ii)(A) through (D). The independent third party must not be owned, managed, or directly controlled by the carrier or the carrier's marketing agent; must not have any financial incentive to confirm preferred carrier freeze requests for the carrier or the carrier's marketing agent; and must operate in a location physically separate from the carrier or the carrier's marketing agent. The content of the verification must include clear and conspicuous confirmation that the subscriber has authorized a preferred carrier freeze.

(3) *Written authorization to impose a preferred carrier freeze.* A local exchange carrier may accept a subscriber's written and signed authorization to impose a freeze on his or her preferred carrier selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred carrier freeze.

(i) The written authorization shall comply with §§ 64.1130(b), (c), and (h) of the Commission's rules concerning the form and content for letters of agency.

(ii) At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(A) The subscriber's billing name and address and the telephone number(s) to be covered by the preferred carrier freeze;

(B) The decision to place a preferred carrier freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (e.g., for local exchange, intraLATA toll, and interLATA toll), the authorization must contain separate statements regarding the particular selections to be frozen;

(C) That the subscriber understands that she or he will be unable to make a change in carrier selection unless she or he lifts the preferred carrier freeze; and

(D) That the subscriber understands that any preferred carrier freeze may involve a charge to the subscriber.

(e) *Procedures for lifting preferred carrier freezes.* All local exchange carriers who offer preferred carrier freezes must, at a minimum, offer subscribers the following procedures for lifting a preferred carrier freeze:

(1) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's written or electronically signed authorization stating his or her intent to lift a preferred carrier freeze; and

(2) A local exchange carrier administering a preferred carrier freeze must accept a subscriber's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting carrier to conduct a three-way conference call with the carrier administering the freeze and the subscriber in order to lift a freeze. When engaged in oral authorization to lift a preferred carrier freeze, the carrier administering the freeze shall confirm appropriate verification data (e.g., the subscriber's date of birth or social security number) and the subscriber's intent to lift the particular freeze.

[64 FR 7762, Feb. 16, 1999, as amended at 66 FR 12893, Mar. 1, 2001; 73 FR 13150, Mar. 12, 2008]

§ 64.1195 Registration requirement.

(a) *Applicability.* A telecommunications carrier that will provide interstate telecommunications service shall file the registration information described in paragraph (b) of this section in accordance with the procedures described in paragraphs (c) and (g) of this

section. Any telecommunications carrier already providing interstate telecommunications service on the effective date of these rules shall submit the relevant portion of its FCC Form 499–A in accordance with paragraphs (b) and (c) of this section.

(b) *Information required for purposes of part 64.* A telecommunications carrier that is subject to the registration requirement pursuant to paragraph (a) of this section shall provide the following information:

(1) The carrier's business name(s) and primary address;

(2) The names and business addresses of the carrier's chief executive officer, chairperson, and president, or, in the event that a company does not have such executives, three similarly senior-level officials of the company;

(3) The carrier's regulatory contact and/or designated agent;

(4) All names that the carrier has used in the past; and

(5) The state(s) in which the carrier provides telecommunications service.

(c) *Submission of registration.* A carrier that is subject to the registration requirement pursuant to paragraph (a) of this section shall submit the information described in paragraph (b) of this section in accordance with the Instructions to FCC Form 499–A. FCC Form 499–A must be submitted under oath and penalty of perjury.

(d) *Rejection of registration.* The Commission may reject or suspend a carrier's registration for any of the reasons identified in paragraphs (e) or (f) of this section.

(e) *Revocation or suspension of operating authority.* After notice and opportunity to respond, the Commission may revoke or suspend the authorization of a carrier to provide service if the carrier provides materially false or incomplete information in its FCC Form 499–A or otherwise fails to comply with paragraphs (a), (b), and (c) of this section.

(f) *Imposition of fine.* After notice and opportunity to respond, the Commission may impose a fine on a carrier that is subject to the registration requirement pursuant to paragraph (a) of this section if that carrier fails to submit an FCC Form 499–A in accordance with paragraphs (a), (b), and (c) of this section.

(g) *Changes in information.* A carrier must notify the Commission of any changes to the information provided pursuant to paragraph (b) of this section within no more than one week of the change. Carriers may satisfy this requirement by filing the relevant portion of FCC Form 499–A in accordance with the Instructions to such form.

(h) *Duty to confirm registration of other carriers.* The Commission shall make available to the public a comprehensive listing of registrants and the information that they have provided pursuant to paragraph (b) of this section. A telecommunications carrier providing telecommunications service for resale shall have an affirmative duty to ascertain whether a potential carrier-customer (*i.e.*, reseller) that is subject to the registration requirement pursuant to paragraph (a) of this section has filed an FCC Form 499–A with the Commission prior to offering service to that carrier-customer. After notice and opportunity to respond, the Commission may impose a fine on a carrier for failure to confirm the registration status of a potential carrier-customer before providing that carrier-customer with service.

[66 FR 12894, Mar. 1, 2001, as amended at 88 FR 21445, Apr. 10, 2023]

Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising

§ 64.1200 Delivery restrictions.

(a) No person or entity may:

(1) Except as provided in paragraph (a)(2) of this section, initiate any telephone call (other than a call made for emergency purposes or is made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice;

(i) To any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency;

(ii) To the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) To any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call.

(iv) A person will not be liable for violating the prohibition in paragraph (a)(1)(iii) of this section when the call is placed to a wireless number that has been ported from wireline service and such call is a voice call; not knowingly made to a wireless number; and made within 15 days of the porting of the number from wireline to wireless service, provided the number is not already on the national do-not-call registry or caller's company-specific do-not-call list. A person will not be liable for violating the prohibition in paragraph (a)(1)(iii) of this section when making calls exempted by paragraph (a)(9) of this section.

(2) Initiate, or cause to be initiated, any telephone call that includes or introduces an advertisement or constitutes telemarketing, using an automatic telephone dialing system or an artificial or prerecorded voice, to any of the lines or telephone numbers described in paragraphs (a)(1)(i) through (iii) of this section, other than a call made with the prior express written consent of the called party or the prior express consent of the called party when the call is made by or on behalf of a tax-exempt nonprofit organization, or a call that delivers a ''health care'' message made by, or on behalf of, a ''covered entity'' or its ''business associate,'' as those terms are defined in the HIPAA Privacy Rule, 45 CFR 160.103.

(3) Initiate any telephone call to any residential line using an artificial or prerecorded voice to deliver a message that includes or introduces an advertisement or constitutes telemarketing without the prior express written consent of the called party, or that exceeds the applicable numerical limitation on calls identified in paragraphs (a)(3)(ii) through (v) of this section without the prior express consent of the called party. A telephone call to any residential line using an artificial or prerecorded voice to deliver a message requires no consent if the call:

(i) Is made for emergency purposes;

(ii) Is not made for a commercial purpose and the caller makes no more than three calls within any consecutive 30-day period to the residential line and honors the called party's request to opt out of future calls as required in paragraphs (b) and (d) of this section;

(iii) Is made for a commercial purpose but does not include or introduce an advertisement or constitute telemarketing and the caller makes no more than three calls within any consecutive 30-day period to the residential line and honors the called party's request to opt out of future calls as required in paragraphs (b) and (d) of this section;

(iv) Is made by or on behalf of a tax-exempt nonprofit organization and the caller makes no more than three calls within any consecutive 30-day period to the residential line and honors the called party's request to opt out of future calls as required in paragraphs (b) and (d) of this section; or

(v) Delivers a ''health care'' message made by, or on behalf of, a ''covered entity'' or its ''business associate,'' as those terms are defined in the HIPAA Privacy Rule, 45 CFR 160.103, and the caller makes no more than one call per day to each patient's residential line, up to a maximum of three calls combined per week to each patient's residential line and honors the called party's request to opt out of future calls as required in paragraphs (b) and (d) of this section.

(4) Use a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine, unless—

(i) The unsolicited advertisement is from a sender with an established business relationship, as defined in paragraph (f)(6) of this section, with the recipient; and

(ii) The sender obtained the number of the telephone facsimile machine through—

(A) The voluntary communication of such number by the recipient directly to the sender, within the context of

such established business relationship; or

(B) A directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution. If a sender obtains the facsimile number from the recipient's own directory, advertisement, or Internet site, it will be presumed that the number was voluntarily made available for public distribution, unless such materials explicitly note that unsolicited advertisements are not accepted at the specified facsimile number. If a sender obtains the facsimile number from other sources, the sender must take reasonable steps to verify that the recipient agreed to make the number available for public distribution.

(C) This clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that was in existence before July 9, 2005 if the sender also possessed the facsimile machine number of the recipient before July 9, 2005. There shall be a rebuttable presumption that if a valid established business relationship was formed prior to July 9, 2005, the sender possessed the facsimile number prior to such date as well; and

(iii) The advertisement contains a notice that informs the recipient of the ability and means to avoid future unsolicited advertisements. A notice contained in an advertisement complies with the requirements under this paragraph only if—

(A) The notice is clear and conspicuous and on the first page of the advertisement;

(B) The notice states that the recipient may make a request to the sender of the advertisement not to send any future advertisements to a telephone facsimile machine or machines and that failure to comply, within 30 days, with such a request meeting the requirements under paragraph (a)(4)(v) of this section is unlawful;

(C) The notice sets forth the requirements for an opt-out request under paragraph (a)(4)(v) of this section;

(D) The notice includes—

(*1*) A domestic contact telephone number and facsimile machine number for the recipient to transmit such a request to the sender; and

(*2*) If neither the required telephone number nor facsimile machine number is a toll-free number, a separate cost-free mechanism including a Web site address or email address, for a recipient to transmit a request pursuant to such notice to the sender of the advertisement. A local telephone number also shall constitute a cost-free mechanism so long as recipients are local and will not incur any long distance or other separate charges for calls made to such number; and

(E) The telephone and facsimile numbers and cost-free mechanism identified in the notice must permit an individual or business to make an opt-out request 24 hours a day, 7 days a week.

(iv) A request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

(A) The request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

(B) The request is made to the telephone number, facsimile number, Web site address or email address identified in the sender's facsimile advertisement; and

(C) The person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine.

(v) A sender that receives a request not to send future unsolicited advertisements that complies with paragraph (a)(4)(v) of this section must honor that request within the shortest reasonable time from the date of such request, not to exceed 30 days, and is prohibited from sending unsolicited advertisements to the recipient unless the recipient subsequently provides prior express invitation or permission to the sender. The recipient's opt-out request terminates the established business relationship exemption for purposes of sending future unsolicited advertisements. If such requests are recorded or maintained by a party other than the sender on whose behalf the

unsolicited advertisement is sent, the sender will be liable for any failures to honor the opt-out request.

(vi) A facsimile broadcaster will be liable for violations of paragraph (a)(4) of this section, including the inclusion of opt-out notices on unsolicited advertisements, if it demonstrates a high degree of involvement in, or actual notice of, the unlawful activity and fails to take steps to prevent such facsimile transmissions.

(5) Use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

(6) Disconnect an unanswered telemarketing call prior to at least 15 seconds or four (4) rings.

(7) Abandon more than three percent of all telemarketing calls that are answered live by a person, as measured over a 30-day period for a single calling campaign. If a single calling campaign exceeds a 30-day period, the abandonment rate shall be calculated separately for each successive 30-day period or portion thereof that such calling campaign continues. A call is ''abandoned'' if it is not connected to a live sales representative within two (2) seconds of the called person's completed greeting.

(i) Whenever a live sales representative is not available to speak with the person answering the call, within two (2) seconds after the called person's completed greeting, the telemarketer or the seller must provide:

(A) A prerecorded identification and opt-out message that is limited to disclosing that the call was for ''telemarketing purposes'' and states the name of the business, entity, or individual on whose behalf the call was placed, and a telephone number for such business, entity, or individual that permits the called person to make a do-not-call request during regular business hours for the duration of the telemarketing campaign; provided, that, such telephone number may not be a 900 number or any other number for which charges exceed local or long distance transmission charges, and

(B) An automated, interactive voice- and/or key press-activated opt-out mechanism that enables the called person to make a do-not-call request prior to terminating the call, including brief explanatory instructions on how to use such mechanism. When the called person elects to opt-out using such mechanism, the mechanism must automatically record the called person's number to the seller's do-not-call list and immediately terminate the call.

(ii) A call for telemarketing purposes that delivers an artificial or prerecorded voice message to a residential telephone line or to any of the lines or telephone numbers described in paragraphs (a)(1)(i) through (iii) of this section after the subscriber to such line has granted prior express written consent for the call to be made shall not be considered an abandoned call if the message begins within two (2) seconds of the called person's completed greeting.

(iii) The seller or telemarketer must maintain records establishing compliance with paragraph (a)(7) of this section.

(iv) Calls made by or on behalf of tax-exempt nonprofit organizations are not covered by this paragraph (a)(7).

(8) Use any technology to dial any telephone number for the purpose of determining whether the line is a facsimile or voice line.

(9) A person will not be liable for violating the prohibition in paragraph (a)(1)(iii) of this section for making any call exempted in this paragraph (a)(9), provided that the call is not charged to the called person or counted against the called person's plan limits on minutes or texts. As used in this paragraph (a)(9), the term ''call'' includes a text message, including a short message service (SMS) call.

(i) Calls made by a package delivery company to notify a consumer about a package delivery, provided that all of the following conditions are met:

(A) The notification must be sent only to the telephone number for the package recipient;

(B) The notification must identify the name of the package delivery company and include contact information for the package delivery company;

(C) The notification must not include any telemarketing, solicitation, or advertising content;

(D) The voice call or text message notification must be concise, generally

one minute or less in length for voice calls or 160 characters or less in length for text messages;

(E) The package delivery company shall send only one notification (whether by voice call or text message) per package, except that one additional notification may be sent for each attempt to deliver the package, up to two attempts, if the recipient's signature is required for the package and the recipient was not available to sign for the package on the previous delivery attempt;

(F) The package delivery company must offer package recipients the ability to opt out of receiving future delivery notification calls and messages and must honor an opt-out request within a reasonable time from the date such request is made, not to exceed 30 days; and,

(G) Each notification must include information on how to opt out of future delivery notifications; voice call notifications that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the called person to make an opt-out request prior to terminating the call; voice call notifications that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future package delivery notifications; text notifications must include the ability for the recipient to opt out by replying ''STOP.''

(ii) Calls made by an inmate collect call service provider following an unsuccessful collect call to establish a billing arrangement with the called party to enable future collect calls, provided that all of the following conditions are met:

(A) Notifications must identify the name of the inmate collect call service provider and include contact information;

(B) Notifications must not include any telemarketing, solicitation, debt collection, or advertising content;

(C) Notifications must be clear and concise, generally one minute or less;

(D) Inmate collect call service providers shall send no more than three notifications following each inmate collect call that is unsuccessful due to the lack of an established billing arrangement, and shall not retain the called party's number after call completion or, in the alternative, after the third notification attempt; and

(E) Each notification call must include information on how to opt out of future calls; voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the called person to make an opt-out request prior to terminating the call; voice calls that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future notification calls; and,

(F) The inmate collect call service provider must honor opt-out requests immediately.

(iii) Calls made by any financial institution as defined in section 4(k) of the Bank Holding Company Act of 1956, 15 U.S.C. 6809(3)(A), provided that all of the following conditions are met:

(A) Voice calls and text messages must be sent only to the wireless telephone number provided by the customer of the financial institution;

(B) Voice calls and text messages must state the name and contact information of the financial institution (for voice calls, these disclosures must be made at the beginning of the call);

(C) Voice calls and text messages are strictly limited to those for the following purposes: transactions and events that suggest a risk of fraud or identity theft; possible breaches of the security of customers' personal information; steps consumers can take to prevent or remedy harm caused by data security breaches; and actions needed to arrange for receipt of pending money transfers;

(D) Voice calls and text messages must not include any telemarketing, cross-marketing, solicitation, debt collection, or advertising content;

(E) Voice calls and text messages must be concise, generally one minute or less in length for voice calls (unless more time is needed to obtain customer responses or answer customer questions) or 160 characters or less in length for text messages;

(F) A financial institution may initiate no more than three messages (whether by voice call or text message) per event over a three-day period for an affected account;

(G) A financial institution must offer recipients within each message an easy means to opt out of future such messages; voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call; voice calls that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future calls; text messages must inform recipients of the ability to opt out by replying ''STOP,'' which will be the exclusive means by which consumers may opt out of such messages; and,

(H) A financial institution must honor opt-out requests immediately.

(iv) Calls made by, or on behalf of, healthcare providers, which include hospitals, emergency care centers, medical physician or service offices, poison control centers, and other healthcare professionals, provided that all of the following conditions are met:

(A) Voice calls and text messages must be sent only to the wireless telephone number provided by the patient;

(B) Voice calls and text messages must state the name and contact information of the healthcare provider (for voice calls, these disclosures would need to be made at the beginning of the call);

(C) Voice calls and text messages are strictly limited to those for the following purposes: appointment and exam confirmations and reminders, wellness checkups, hospital pre-registration instructions, pre-operative instructions, lab results, post-discharge follow-up intended to prevent readmission, prescription notifications, and home healthcare instructions;

(D) Voice calls and text messages must not include any telemarketing, solicitation, or advertising; may not include accounting, billing, debt-collection, or other financial content; and must comply with HIPAA privacy rules, 45 CFR 160.103;

(E) Voice calls and text messages must be concise, generally one minute or less in length for voice calls or 160 characters or less in length for text messages;

(F) A healthcare provider may initiate only one message (whether by voice call or text message) per day to each patient, up to a maximum of three voice calls or text messages combined per week to each patient;

(G) A healthcare provider must offer recipients within each message an easy means to opt out of future such messages; voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call; voice calls that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future healthcare calls; text messages must inform recipients of the ability to opt out by replying ''STOP,'' which will be the exclusive means by which consumers may opt out of such messages; and,

(H) A healthcare provider must honor opt-out requests immediately.

(b) All artificial or prerecorded voice telephone messages shall:

(1) At the beginning of the message, state clearly the identity of the business, individual, or other entity that is responsible for initiating the call. If a business is responsible for initiating the call, the name under which the entity is registered to conduct business with the State Corporation Commission (or comparable regulatory authority) must be stated;

(2) During or after the message, state clearly the telephone number (other than that of the autodialer or prerecorded message player that placed the call) of such business, other entity, or individual. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges. For telemarketing messages and messages made pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section to residential telephone subscribers, such

telephone number must permit any individual to make a do-not-call request during regular business hours; and

(3) In every case where the artificial or prerecorded-voice telephone message is made pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or includes or introduces an advertisement or constitutes telemarketing and is delivered to a residential telephone line or any of the lines or telephone numbers described in paragraphs (a)(1)(i) through (iii) of this section, provide an automated, interactive voice- and/or key press-activated opt-out mechanism for the called person to make a do-not-call request, including brief explanatory instructions on how to use such mechanism, within two (2) seconds of providing the identification information required in paragraph (b)(1) of this section. When the called person elects to opt out using such mechanism, the mechanism must automatically record the called person's number to the caller's do-not-call list and immediately terminate the call. When the artificial or prerecorded-voice telephone message is left on an answering machine or a voice mail service, such message must also provide a toll free number that enables the called person to call back at a later time and connect directly to the automated, interactive voice- and/or key press-activated opt-out mechanism and automatically record the called person's number to the caller's do-not-call list.

(c) No person or entity shall initiate any telephone solicitation to:

(1) Any residential telephone subscriber before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location), or

(2) A residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the Federal Government. Such do-not-call registrations must be honored indefinitely, or until the registration is cancelled by the consumer or the telephone number is removed by the database administrator. Any person or entity making telephone solicitations (or on whose behalf telephone solicitations are made) will not be liable for violating this requirement if:

(i) It can demonstrate that the violation is the result of error and that as part of its routine business practice, it meets the following standards:

(A) Written procedures. It has established and implemented written procedures to comply with the national do-not-call rules;

(B) Training of personnel. It has trained its personnel, and any entity assisting in its compliance, in procedures established pursuant to the national do-not-call rules;

(C) Recording. It has maintained and recorded a list of telephone numbers that the seller may not contact;

(D) Accessing the national do-not-call database. It uses a process to prevent telephone solicitations to any telephone number on any list established pursuant to the do-not-call rules, employing a version of the national do-not-call registry obtained from the administrator of the registry no more than 31 days prior to the date any call is made, and maintains records documenting this process.

NOTE TO PARAGRAPH (c)(2)(i)(D): The requirement in paragraph 64.1200(c)(2)(i)(D) for persons or entities to employ a version of the national do-not-call registry obtained from the administrator no more than 31 days prior to the date any call is made is effective January 1, 2005. Until January 1, 2005, persons or entities must continue to employ a version of the registry obtained from the administrator of the registry no more than three months prior to the date any call is made.

(E) Purchasing the national do-not-call database. It uses a process to ensure that it does not sell, rent, lease, purchase or use the national do-not-call database, or any part thereof, for any purpose except compliance with this section and any such state or federal law to prevent telephone solicitations to telephone numbers registered on the national database. It purchases access to the relevant do-not-call data from the administrator of the national database and does not participate in any arrangement to share the cost of accessing the national database, including any arrangement with telemarketers who may not divide the costs to access the national database among various client sellers; or

(ii) It has obtained the subscriber's prior express invitation or permission. Such permission must be evidenced by a signed, written agreement between the consumer and seller which states that the consumer agrees to be contacted by this seller and includes the telephone number to which the calls may be placed; or

(iii) The telemarketer making the call has a personal relationship with the recipient of the call.

(d) No person or entity shall initiate any artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive such calls made by or on behalf of that person or entity. The procedures instituted must meet the following minimum standards:

(1) *Written policy*. Persons or entities making artificial or prerecorded-voice telephone calls pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or calls for telemarketing purposes must have a written policy, available upon demand, for maintaining a do-not-call list.

(2) *Training of personnel.* Personnel engaged in making artificial or prerecorded-voice telephone calls pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or who are engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(3) *Recording, disclosure of do-not-call requests.* If a person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes (or on whose behalf such a call is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name, if provided, and telephone number on the do-not-call list at the time the request is made. Persons or entities making such calls (or on whose behalf such calls are made) must honor a residential subscriber's do-not-call request within a reasonable time from the date such request is made. This period may not exceed 30 days from the date of such request. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the call is made, the person or entity on whose behalf the call is made will be liable for any failures to honor the do-not-call request. A person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes must obtain a consumer's prior express permission to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a call is made or an affiliated entity.

(4) *Identification of callers and telemarketers.* A person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

(5) *Affiliated persons or entities.* In the absence of a specific request by the subscriber to the contrary, a residential subscriber's do-not-call request shall apply to the particular entity making the call (or on whose behalf a call is made), and will not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the caller and (for telemarketing calls) the product being advertised.

(6) *Maintenance of do-not-call lists.* A person or entity making artificial or

prerecorded-voice telephone calls pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes must maintain a record of a consumer's request not to receive further calls. A do-not-call request must be honored for 5 years from the time the request is made.

(e) The rules set forth in paragraph (c) and (d) of this section are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers to the extent described in the Commission's Report and Order, CG Docket No. 02–278, FCC 03–153, ''Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.''

(f) As used in this section:

(1) The term *advertisement* means any material advertising the commercial availability or quality of any property, goods, or services.

(2) The terms *automatic telephone dialing system* and *autodialer* mean equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.

(3) The term *clear and conspicuous* means a notice that would be apparent to the reasonable consumer, separate and distinguishable from the advertising copy or other disclosures. With respect to facsimiles and for purposes of paragraph (a)(4)(iii)(A) of this section, the notice must be placed at either the top or bottom of the facsimile.

(4) The term *emergency purposes* means calls made necessary in any situation affecting the health and safety of consumers.

(5) The term *established business relationship* for purposes of telephone solicitations means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of the subscriber's purchase or transaction with the entity within the eighteen (18) months immediately preceding the date of the telephone call or on the basis of the subscriber's inquiry or application regarding products or services offered by the entity within the three months immediately preceding the date of the call, which relationship has not been previously terminated by either party.

(i) The subscriber's seller-specific do-not-call request, as set forth in paragraph (d)(3) of this section, terminates an established business relationship for purposes of telemarketing and telephone solicitation even if the subscriber continues to do business with the seller.

(ii) The subscriber's established business relationship with a particular business entity does not extend to affiliated entities unless the subscriber would reasonably expect them to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate.

(6) The term *established business relationship* for purposes of paragraph (a)(4) of this section on the sending of facsimile advertisements means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a business or residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the business or residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.

(7) The term *facsimile broadcaster* means a person or entity that transmits messages to telephone facsimile machines on behalf of another person or entity for a fee.

(8) The term *one-ring scam* means a scam in which a caller makes a call and allows the call to ring the called party for a short duration, in order to prompt the called party to return the call, thereby subjecting the called party to charges.

(9) The term *prior express written consent* means an agreement, in writing, bearing the signature of the person called that clearly authorizes the seller to deliver or cause to be delivered to the person called advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice, and the telephone number to which the signatory authorizes such advertisements or

telemarketing messages to be delivered.

(i) The written agreement shall include a clear and conspicuous disclosure informing the person signing that:

(A) By executing the agreement, such person authorizes the seller to deliver or cause to be delivered to the signatory telemarketing calls using an automatic telephone dialing system or an artificial or prerecorded voice; and

(B) The person is not required to sign the agreement (directly or indirectly), or agree to enter into such an agreement as a condition of purchasing any property, goods, or services.

(ii) The term ''signature'' shall include an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.

(10) The term *seller* means the person or entity on whose behalf a telephone call or message is initiated for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(11) The term *sender* for purposes of paragraph (a)(4) of this section means the person or entity on whose behalf a facsimile unsolicited advertisement is sent or whose goods or services are advertised or promoted in the unsolicited advertisement.

(12) The term *telemarketer* means the person or entity that initiates a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(13) The term *telemarketing* means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person.

(14) The term *telephone facsimile machine* means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(15) The term *telephone solicitation* means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message:

(i) To any person with that person's prior express invitation or permission;

(ii) To any person with whom the caller has an established business relationship; or

(iii) By or on behalf of a tax-exempt nonprofit organization.

(16) The term *unsolicited advertisement* means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission, in writing or otherwise.

(17) The term *personal relationship* means any family member, friend, or acquaintance of the telemarketer making the call.

(18) The term *effectively mitigate* means identifying the source of the traffic and preventing that source from continuing to originate traffic of the same or similar nature.

(19) The term *gateway provider* means a U.S.-based intermediate provider that receives a call directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider. For purposes of this paragraph (f)(19):

(i) *U.S.-based* means that the provider has facilities located in the United States, including a point of presence capable of processing the call; and

(ii) *Receives a call directly* from a provider means the foreign provider directly upstream of the gateway provider in the call path sent the call to the gateway provider, with no providers in-between.

(g) Beginning January 1, 2004, common carriers shall:

(1) When providing local exchange service, provide an annual notice, via an insert in the subscriber's bill, of the right to give or revoke a notification of an objection to receiving telephone solicitations pursuant to the national do-not-call database maintained by the

federal government and the methods by which such rights may be exercised by the subscriber. The notice must be clear and conspicuous and include, at a minimum, the Internet address and toll-free number that residential telephone subscribers may use to register on the national database.

(2) When providing service to any person or entity for the purpose of making telephone solicitations, make a one-time notification to such person or entity of the national do-not-call requirements, including, at a minimum, citation to 47 CFR 64.1200 and 16 CFR 310. Failure to receive such notification will not serve as a defense to any person or entity making telephone solicitations from violations of this section.

(h) The administrator of the national do-not-call registry that is maintained by the federal government shall make the telephone numbers in the database available to the States so that a State may use the telephone numbers that relate to such State as part of any database, list or listing system maintained by such State for the regulation of telephone solicitations.

(i)–(j) [Reserved]

(k) Voice service providers may block calls so that they do not reach a called party as follows:

(1) A provider may block a voice call when the subscriber to which the originating number is assigned has requested that calls purporting to originate from that number be blocked because the number is used for inbound calls only.

(2) A provider may block a voice call purporting to originate from any of the following:

(i) A North American Numbering Plan number that is not valid;

(ii) A valid North American Numbering Plan number that is not allocated to a provider by the North American Numbering Plan Administrator or the Pooling Administrator; and

(iii) A valid North American Numbering Plan number that is allocated to a provider by the North American Numbering Plan Administrator or Pooling Administrator, but is unused, so long as the provider blocking the calls is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of the blocking.

(iv) A telephone number that the provider identifies, based on reasonable analytics, as highly likely to be associated with a one-ring scam.

(3) A terminating provider may block a voice call without liability under the Communications Act or the Commission's rules where:

(i) Calls are blocked based on the use of reasonable analytics designed to identify unwanted calls;

(ii) Those analytics include consideration of caller ID authentication information where available;

(iii) A consumer may opt out of blocking and is provided with sufficient information to make an informed decision;

(iv) All analytics are applied in a non-discriminatory, competitively neutral manner;

(v) Blocking services are provided with no additional line-item charge to consumers; and

(vi) The terminating provider provides, without charge to the caller, the redress requirements set forth in paragraph (k)(8) of this section.

(4) A provider may block voice calls or cease to accept traffic from an originating or intermediate provider without liability under the Communications Act or the Commission's rules where the originating or intermediate provider, when notified by the Commission, fails to effectively mitigate illegal traffic within 48 hours or fails to implement effective measures to prevent new and renewing customers from using its network to originate illegal calls. Prior to initiating blocking, the provider shall provide the Commission with notice and a brief summary of the basis for its determination that the originating or intermediate provider meets one or more of these two conditions for blocking.

(5) A provider may not block a voice call under paragraphs (k)(1) through (4), paragraph (k)(11), paragraphs (n)(5) and (6), or paragraph (o) of this section if the call is an emergency call placed to 911.

(6) When blocking consistent with paragraphs (k)(1) through (4), paragraph (k)(11), paragraphs (n)(5) and (6),

or paragraph (o) of this section, a provider must making all reasonable efforts to ensure that calls from public safety answering points and government emergency numbers are not blocked.

(7) For purposes of this section, a provider may rely on Caller ID information to determine the purported originating number without regard to whether the call, in fact originated from that number.

(8) Each terminating provider that blocks calls pursuant to this section or utilizes caller ID authentication information in determining how to deliver calls must provide a single point of contact, readily available on the terminating provider's public-facing website, for receiving call blocking error complaints and verifying the authenticity of the calls of a calling party that is adversely affected by information provided by caller ID authentication. The terminating provider must resolve disputes pertaining to caller ID authentication information within a reasonable time and, at a minimum, provide a status update within 24 hours. When a caller makes a credible claim of erroneous blocking and the terminating provider determines that the calls should not have been blocked, or the call delivery decision is not appropriate, the terminating provider must promptly cease the call treatment for that number unless circumstances change. The terminating provider may not impose any charge on callers for reporting, investigating, or resolving either category of complaints, so long as the complaint is made in good faith.

(9) Any terminating provider that blocks calls based on any analytics program, either itself or through a third-party blocking service, must immediately return, and all voice service providers in the call path must transmit, an appropriate response code to the origination point of the call. For purposes of this rule, an appropriate response code is:

(i) In the case of a call terminating on an IP network, the use of Session Initiation Protocol (SIP) code 603, 607, or 608;

(ii) In the case of a call terminating on a non-IP network, the use of ISDN User Part (ISUP) code 21 with the cause location ''user'';

(iii) In the case of a code transmitting from an IP network to a non-IP network, SIP codes 607 and 608 must map to ISUP code 21; and

(iv) In the case of a code transmitting from a non-IP network to an IP network, ISUP code 21 must map to SIP code 603, 607, or 608 where the cause location is ''user.''

(10) Any terminating provider that blocks calls pursuant to an opt-out or opt-in analytics program, either itself or through a third-party blocking service, must provide, at the request of the subscriber to a number, at no additional charge and within 3 business days of such a request, a list of calls to that number, including the date and time of the call and the calling number, that the terminating provider or its designee blocked pursuant to such analytics program within the 28 days prior to the request.

(11) A terminating provider may block calls without liability under the Communications Act and the Commission's rules, without giving consumers the opportunity to opt out of such blocking, so long as:

(i) The provider reasonably determines, based on reasonable analytics that include consideration of caller ID authentication information where available, that calls are part of a particular call pattern that is highly likely to be illegal;

(ii) The provider manages its network-based blocking with human oversight and network monitoring sufficient to ensure that it blocks only calls that are highly likely to be illegal, which must include a process that reasonably determines that the particular call pattern is highly likely to be illegal before initiating blocking of calls that are part of that pattern;

(iii) The provider ceases blocking calls that are part of the call pattern as soon as the provider has actual knowledge that the blocked calls are likely lawful;

(iv) The provider discloses to consumers that it is engaging in such blocking;

(v) All analytics are applied in a non-discriminatory, competitively neutral manner;

(vi) Blocking services are provided with no additional line-item charge to consumers; and

(vii) The terminating provider provides, without line item charge to the caller, the redress requirements set forth in subparagraphs 8 and 9.

(l) A reporting carrier subject to § 52.15(f) of this title shall:

(1) Maintain records of the most recent date each North American Numbering Plan (NANP) telephone number allocated or ported to the reporting carrier was permanently disconnected.

(2) Beginning on the 15th day of the month after the Consumer and Governmental Affairs Bureau announces that the Administrator is ready to begin accepting these reports and on the 15th day of each month thereafter, report to the Administrator the most recent date each NANP telephone number allocated to or ported to it was permanently disconnected.

(3) For purposes of this paragraph (l), a NANP telephone number has been permanently disconnected when a subscriber permanently has relinquished the number, or the provider permanently has reversed its assignment of the number to the subscriber such that the number has been disassociated with the subscriber. A NANP telephone number that is ported to another provider is not permanently disconnected.

(4) Reporting carriers serving 100,000 or fewer domestic retail subscriber lines as reported on their most recent Forms 477, aggregated over all the providers' affiliates, must begin keeping the records required by paragraph (l)(1) of this section six months after the effective date for large providers and must begin filing the reports required by paragraph (l)(2) of this section no later than the 15th day of the month that is six months after the date announced by the Consumer and Governmental Affairs Bureau pursuant to paragraph (l)(2).

(m) A person will not be liable for violating the prohibitions in paragraph (a)(1), (2), or (3) of this section by making a call to a number for which the person previously had obtained prior express consent of the called party as required in paragraph (a)(1), (2), or (3) but at the time of the call, the number is not assigned to the subscriber to whom it was assigned at the time such prior express consent was obtained if the person, bearing the burden of proof and persuasion, demonstrates that:

(1) The person, based upon the most recent numbering information reported to the Administrator pursuant to paragraph (l) of this section, by querying the database operated by the Administrator and receiving a response of ''no'', has verified that the number has not been permanently disconnected since the date prior express consent was obtained as required in paragraph (a)(1), (2), or (3) of this section; and

(2) The person's call to the number was the result of the database erroneously returning a response of ''no'' to the person's query consisting of the number for which prior express consent was obtained as required in paragraph (a)(1), (2), or (3) of this section and the date on which such prior express consent was obtained.

(n) A voice service provider must:

(1) Upon receipt of a traceback request from the Commission, civil law enforcement, criminal law enforcement, or the industry traceback consortium:

(i) If the provider is an originating, terminating, or non-gateway intermediate provider for all calls specified in the traceback request, the provider must respond fully and in a timely manner;

(ii) If the provider receiving a traceback request is the gateway provider for any calls specified in the traceback request, the provider must fully respond to the traceback request within 24 hours of receipt of the request. The 24-hour clock does not start outside of business hours, and requests received during that time are deemed received at 8 a.m. on the next business day. If the 24-hour response period would end on a non-business day, either a weekend or a Federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. For example, a request received at 3 p.m. on a Friday will be due at 3 p.m. on the following Monday, assuming that Monday is not a Federal legal holiday. For purposes of this paragraph (n)(1)(ii),

business day is defined as Monday through Friday, excluding Federal legal holidays, and *business hours* is defined as 8 a.m. to 5:30 p.m. on a business day. For purposes of this paragraph (n)(1)(ii), all times are local time for the office that is required to respond to the request.

(2) Take steps to effectively mitigate illegal traffic when it receives actual written notice of such traffic from the Commission through its Enforcement Bureau. In providing notice, the Enforcement Bureau shall identify with as much particularity as possible the suspected traffic; provide the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful; cite the statutory or regulatory provisions the suspected traffic appears to violate; and direct the voice service provider receiving the notice that it must comply with this section. Each notified provider must promptly investigate the identified traffic. Each notified provider must then promptly report the results of its investigation to the Enforcement Bureau, including any steps the provider has taken to effectively mitigate the identified traffic or an explanation as to why the provider has reasonably concluded that the identified calls were not illegal and what steps it took to reach that conclusion. Should the notified provider find that the traffic comes from an upstream provider with direct access to the U.S. Public Switched Telephone Network, that provider must promptly inform the Enforcement Bureau of the source of the traffic and, if possible, take steps to mitigate this traffic; and

(3) Take affirmative, effective measures to prevent new and renewing customers from using its network to originate illegal calls, including knowing its customers and exercising due diligence in ensuring that its services are not used to originate illegal traffic.

(4) If the provider acts as a gateway provider, take reasonable and effective steps to ensure that any foreign originating provider or foreign intermediate provider from which it directly receives traffic is not using the gateway provider to carry or process a high volume of illegal traffic onto the U.S. network. Compliance with this paragraph (n)(4) will not be required until January 16, 2023.

(5) If the provider acts as a gateway provider, and is properly notified under this section, block identified illegal traffic and any substantially similar traffic on an ongoing basis (unless its investigation determines that the traffic is not illegal) when it receives actual written notice of such traffic by the Commission through its Enforcement Bureau. The gateway provider will not be held liable under the Communications Act or the Commission's rules in this chapter for gateway providers that inadvertently block lawful traffic as part of the requirement to block substantially similar traffic so long as it is blocking consistent with the requirements of this paragraph (n)(5). For purposes of this paragraph (n)(5), *identified traffic* means the illegal traffic identified in the Notification of Suspected Illegal Traffic issued by the Enforcement Bureau. The following procedures shall apply:

(i)(A) The Enforcement Bureau will issue a Notification of Suspected Illegal Traffic that identifies with as much particularity as possible the suspected illegal traffic; provides the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful; cites the statutory or regulatory provisions the identified traffic appears to violate; and directs the provider receiving the notice that it must comply with this section. The Enforcement Bureau's Notification of Suspected Illegal Traffic shall give the identified provider a minimum of 14 days to comply with the notice. Each notified provider must promptly investigate the identified traffic and report the results of that investigation to the Enforcement Bureau within the timeframe specified in the Notification of Suspected Illegal Traffic. If the provider's investigation determines that it served as the gateway provider for the identified traffic, it must block the identified traffic within the timeframe specified in the Notification of Suspected Illegal Traffic and include in its report to the Enforcement Bureau:

(*1*) A certification that it is blocking the identified traffic and will continue to do so; and

(*2*) A description of its plan to identify and block substantially similar traffic on an ongoing basis.

(B) If the provider's investigation determines that the identified traffic is not illegal, it shall provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion. Absent such a showing, or if the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the identified traffic will be deemed illegal. If the notified provider determines during this investigation that it did not serve as the gateway provider for any of the identified traffic, it shall provide an explanation as to how it reached that conclusion and, if it is a non-gateway intermediate or terminating provider for the identified traffic, it must identify the upstream provider(s) from which it received the identified traffic and, if possible, take lawful steps to mitigate this traffic. If the notified provider determines that it is the originating provider, or the traffic otherwise comes from a source that does not have direct access to the U.S. public switched telephone network, it must promptly comply with paragraph (n)(2) of this section by effectively mitigating the identified traffic and reporting to the Enforcement Bureau any steps it has taken to effectively mitigate the identified traffic. If the Enforcement Bureau finds that an approved plan is not blocking substantially similar traffic, the identified provider shall modify its plan to block such traffic. If the Enforcement Bureau finds, that the identified provider continues to allow suspected illegal traffic onto the U.S. network, it may proceed under paragraph (n)(5)(ii) or (iii) of this section as appropriate.

(ii) If the provider fails to respond to the Notification of Suspected Illegal Traffic, the Enforcement Bureau determines that the response is insufficient, the Enforcement Bureau determines that the gateway provider is continuing to allow substantially similar traffic onto the U.S. network after the timeframe specified in the Notification of Suspected Illegal Traffic, or the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the Enforcement Bureau shall issue an Initial Determination Order to the gateway provider stating the Bureau's initial determination that the gateway provider is not in compliance with this section. The Initial Determination Order shall include the Enforcement Bureau's reasoning for its determination and give the gateway provider a minimum of 14 days to provide a final response prior to the Enforcement Bureau making a final determination on whether the provider is in compliance with this section.

(iii) If the gateway provider does not provide an adequate response to the Initial Determination Order within the timeframe permitted in that Order or continues to allow substantially similar traffic onto the U.S. network, the Enforcement Bureau shall issue a Final Determination Order finding that the gateway provider is not in compliance with this section. The Final Determination Orders shall be published in EB Docket No. 22–174 at *https://www.fcc.gov/ecfs/search/search-filings*. A Final Determination Order may be issued up to one year after the release date of the Initial Determination Order, and may be based on either an immediate failure to comply with this rule or a determination that the gateway provider has failed to meet its ongoing obligation under this rule to block substantially similar traffic.

(6) When notified by the Commission through its Enforcement Bureau that a Final Determination Order has been issued finding that a gateway provider has failed to block as required under paragraph (n)(5) of this section, block and cease accepting all traffic received directly from the identified gateway provider beginning 30 days after the release date of the Final Determination Order. This paragraph (n)(6) applies to any provider immediately downstream from the gateway provider. The Enforcement Bureau shall provide notification by publishing the Final Determination Order in EB Docket No. 22–174 at *https://www.fcc.gov/ecfs/search/search-filings*. Providers must monitor EB Docket No. 22–174 and initiate blocking no later than 30 days from the

release date of the Final Determination Order. A provider that chooses to initiate blocking sooner than 30 days from the release date may do so consistent with paragraph (k)(4) of this section.

(o)A provider that serves as a gateway provider for particular calls must, with respect to those calls, block any calls purporting to originate from a number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only:

(1) Numbers for which the subscriber to which the number is assigned has requested that calls purporting to originate from that number be blocked because the number is used for inbound calls only;

(2) North American Numbering Plan numbers that are not valid;

(3) Valid North American Numbering Plan Numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and

(4) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the calls is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

(p) A mobile wireless provider must block a text message purporting to originate from a North American Numbering Plan number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious North American Numbering Plan numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only:

(1) North American Numbering Plan Numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked;

(2) North American Numbering Plan numbers that are not valid;

(3) Valid North American Numbering Plan numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and

(4) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the message is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

(q) Paragraph (p) of this section may contain an information-collection and/or recordkeeping requirement. Compliance with paragraph (p) will not be required until this paragraph (q) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Consumer and Governmental Affairs Bureau determines that such review is not required.

(r) A mobile wireless provider must provide a point of contact or ensure its aggregator partners or blocking contractors that block text messages on its network provide a point of contact to resolve complaints about erroneous blocking from message senders that can document that their messages have been blocked. Such point of contact may be the same point of contact for voice call blocking error complaints.

[68 FR 44177, July 25, 2003, as amended at 68 FR 59131, Oct. 14, 2003; 69 FR 60316, Oct. 8, 2004; 70 FR 19337, Apr. 13, 2005; 71 FR 25977, May 3, 2006; 71 FR 56893, Sept. 28, 2006; 71 FR 75122, Dec. 14, 2006; 73 FR 40185, July 14, 2008; 77 FR 34246, June 11, 2012; 83 FR 1577, Jan. 12, 2018; 84 FR 10267, Mar. 20, 2019; 84 FR 11232, Mar. 26, 2019; 85 FR 56534, Sept. 14, 2020; 86 FR 2563, Jan. 13, 2021; 86 FR 11447, 11448, Feb. 25, 2021; 86 FR 17734,17735, Apr. 6, 2021; 86 FR 74375, Dec. 30, 2021; 87 FR 7044, Feb. 8, 2022; 87 FR 42944, July 18, 2022; 87 FR 51921, Aug. 24, 2022; 87 FR 69207, Nov. 18, 2022; 88 FR 3677, Jan. 20, 2023; 88 FR 21500, Apr. 11, 2023]

EDITORIAL NOTE: At 87 FR 42944, July 18, 2022, § 64.1200 was amended by adding paragraph (o), however, this amendment was delayed indefinitely.

EFFECTIVE DATE NOTE: At 88 FR 43458, July 10, 2023, § 64.1200 was amended by revising paragraphs (k)(5) and (6)and (n)(1), removing paragraph (n)(2), redesignating paragraphs (n)(3), (4),(5), and (6) as paragraphs (n)(4), (5), (2), and (3), and revising newly redesignating paragraphs (n)(2), (3), and (5), effective Jan. 8, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(k) * * *

(5) A provider may not block a voice call under paragraphs (k)(1) through (4), paragraph (k)(11), paragraphs (n)(2) and (3), paragraph (n)(5), or paragraph (o) of this section if the call is an emergency call placed to 911.

(6) When blocking consistent with paragraphs (k)(1) through (4), paragraph (k)(11), paragraphs (n)(2) and (3), paragraph (n)(5), or paragraph (o) of this section, a provider must make all reasonable efforts to ensure that calls from public safety answering points and government emergency numbers are not blocked.

* * * * *

(n) * * *

(1) Upon receipt of a traceback request from the Commission, civil law enforcement, criminal law enforcement, or the industry traceback consortium, the provider must fully respond to the traceback request within 24 hours of receipt of the request. The 24-hour clock does not start outside of business hours, and requests received during that time are deemed received at 8 a.m. on the next business day. If the 24-hour response period would end on a non-business day, either a weekend or a Federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. For example, a request received at 3 p.m. on a Friday will be due at 3 p.m. on the following Monday, assuming that Monday is not a Federal legal holiday. For purposes of this paragraph (n)(1), *business day* is defined as Monday through Friday, excluding Federal legal holidays, and *business hours* is defined as 8 a.m. to 5:30 p.m. on a business day. For purposes of this paragraph (n)(1), all times are local time for the office that is required to respond to the request.

(2) Upon receipt of a Notice of Suspected Illegal Traffic from the Commission through its Enforcement Bureau, take the applicable actions with respect to the identified traffic described in paragraphs (n)(2)(i) through (iii) of this section. The provider will not be held liable under the Communications Act or the Commission's rules in this chapter for providers that inadvertently block lawful traffic as part of the requirement to block substantially similar traffic so long as it is blocking consistent with the requirements of paragraphs (n)(2)(i) through (iii). For purposes of this paragraph (n)(2), *identified traffic* means the illegal traffic identified in the Notification of Suspected Illegal Traffic issued by the Enforcement Bureau. The following procedures shall apply:

(i)(A) The Enforcement Bureau will issue a Notification of Suspected Illegal Traffic that identifies with as much particularity as possible the suspected illegal traffic; provides the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful; cites the statutory or regulatory provisions the identified traffic appears to violate; and directs the provider receiving the notice that it must comply with this section. The Enforcement Bureau's Notification of Suspected Illegal Traffic shall give the identified provider a minimum of 14 days to comply with the notice. Each notified provider must promptly investigate the identified traffic and report the results of that investigation to the Enforcement Bureau within the timeframe specified in the Notification of Suspected Illegal Traffic. If the provider's investigation determines that it served as the gateway or originating provider for the identified traffic, it must block or cease accepting the identified traffic and substantially similar traffic on an ongoing basis within the timeframe specified in the Notification of Suspected Illegal Traffic. The provider must include in its report to the Enforcement Bureau:

(*1*) A certification that it is blocking the identified traffic and will continue to do so; and

(*2*) A description of its plan to identify and block or cease accepting substantially similar traffic on an ongoing basis.

(B) If the provider's investigation determines that the identified traffic is not illegal, it shall provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion. Absent such a showing, or if the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the identified traffic will be deemed illegal. If the notified provider determines during this investigation that it did not serve as the gateway provider or originating provider for any of the identified traffic, it shall provide an explanation as to how it reached that conclusion and, if it is a non-gateway intermediate or terminating provider for the identified traffic, it must identify the upstream provider(s) from which it received the identified traffic and, if possible, take lawful steps to mitigate this traffic. If the Enforcement Bureau finds that an approved plan is not blocking substantially similar traffic, the identified provider shall modify its plan to block such traffic. If the Enforcement Bureau finds that the identified provider continues to allow suspected illegal traffic onto the U.S. network, it may proceed under paragraph (n)(2)(ii) or (iii) of this section, as appropriate.

(ii) If the provider fails to respond to the Notification of Suspected Illegal Traffic, the

Enforcement Bureau determines that the response is insufficient, the Enforcement Bureau determines that the provider is continuing to originate substantially similar traffic or allow substantially similar traffic onto the U.S. network after the timeframe specified in the Notification of Suspected Illegal Traffic, or the Enforcement Bureau determines based on the evidence that the traffic is illegal despite the provider's assertions, the Enforcement Bureau shall issue an Initial Determination Order to the provider stating the Bureau's initial determination that the provider is not in compliance with this section. The Initial Determination Order shall include the Enforcement Bureau's reasoning for its determination and give the provider a minimum of 14 days to provide a final response prior to the Enforcement Bureau making a final determination on whether the provider is in compliance with this section.

(iii) If the provider does not provide an adequate response to the Initial Determination Order within the timeframe permitted in that Order or continues to originate substantially similar traffic onto the U.S. network, the Enforcement Bureau shall issue a Final Determination Order finding that the provider is not in compliance with this section. The Final Determination Orders shall be published in EB Docket No. 22–174 at *https://www.fcc.gov/ecfs/search/search-filings*. A Final Determination Order may be issued up to one year after the release date of the Initial Determination Order, and may be based on either an immediate failure to comply with this section or a determination that the provider has failed to meet its ongoing obligation under this section to block substantially similar traffic.

(3) When notified by the Commission through its Enforcement Bureau that a Final Determination Order has been issued finding that an upstream provider has failed to comply with paragraph (n)(2) of this section, block and cease accepting all traffic received directly from the upstream provider beginning 30 days after the release date of the Final Determination Order. This paragraph (n)(3) applies to any provider immediately downstream from the upstream provider. The Enforcement Bureau shall provide notification by publishing the Final Determination Order in EB Docket No. 22–174 at *https://www.fcc.gov/ecfs/search/search-filings*. Providers must monitor EB Docket No. 22–174 and initiate blocking no later than 30 days from the release date of the Final Determination Order. A provider that chooses to initiate blocking sooner than 30 days from the release date may do so consistent with paragraph (k)(4) of this section.

* * * * *

(5) Take reasonable and effective steps to ensure that any originating provider or intermediate provider, foreign or domestic, from which it directly receives traffic is not using the provider to carry or process a high volume of illegal traffic onto the U.S. network.

§ 64.1201 Restrictions on billing name and address disclosure.

(a) As used in this section:

(1) The term *billing name and address* means the name and address provided to a local exchange company by each of its local exchange customers to which the local exchange company directs bills for its services.

(2) The term ''telecommunications service provider'' means interexchange carriers, operator service providers, enhanced service providers, and any other provider of interstate telecommunications services.

(3) The term *authorized billing agent* means a third party hired by a telecommunications service provider to perform billing and collection services for the telecommunications service provider.

(4) The term *bulk basis* means billing name and address information for all the local exchange service subscribers of a local exchange carrier.

(5) The term *LEC joint use card* means a calling card bearing an account number assigned by a local exchange carrier, used for the services of the local exchange carrier and a designated interexchange carrier, and validated by access to data maintained by the local exchange carrier.

(b) No local exchange carrier providing billing name and address shall disclose billing name and address information to any party other than a telecommunications service provider or an authorized billing and collection agent of a telecommunications service provider.

(c)(1) No telecommunications service provider or authorized billing and collection agent of a telecommunications service provider shall use billing name and address information for any purpose other than the following:

(i) Billing customers for using telecommunications services of that service provider and collecting amounts due;

(ii) Any purpose associated with the ''equal access'' requirement of *United States* v. *AT&T* 552 F.Supp. 131 (D.D.C. 1982); and

(iii) Verification of service orders of new customers, identification of customers who have moved to a new address, fraud prevention, and similar nonmarketing purposes.

(2) In no case shall any telecommunications service provider or authorized billing and collection agent of a telecommunications service provider disclose the billing name and address information of any subscriber to any third party, except that a telecommunications service provider may disclose billing name and address information to its authorized billing and collection agent.

(d) [Reserved]

(e)(1) All local exchange carriers providing billing name and address information shall notify their subscribers that:

(i) The subscriber's billing name and address will be disclosed, pursuant to Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, CC Docket No. 91–115, FCC 93–254, adopted May 13, 1993, whenever the subscriber uses a LEC joint use card to pay for services obtained from the telecommunications service provider, and

(ii) The subscriber's billing name and address will be disclosed, pursuant to Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, CC Docket No. 91–115, FCC 93–254, adopted May 13, 1993, whenever the subscriber accepts a third party or collect call to a telephone station provided by the LEC to the subscriber.

(2) In addition to the notification specified in paragraph (e)(1) of this section, all local exchange carriers providing billing name and address information shall notify their subscribers with unlisted or nonpublished telephone numbers that:

(i) Customers have a right to request that their BNA not be disclosed, and that customers may prevent BNA disclosure for third party and collect calls as well as calling card calls;

(ii) LECs will presume that unlisted and nonpublished end users consent to disclosure and use of their BNA if customers do not affirmatively request that their BNA not be disclosed; and

(iii) The presumption in favor of consent for disclosure will begin 30 days after customers receive notice.

(3) No local exchange carrier shall disclose the billing name and address information associated with any calling card call made by any subscriber who has affirmatively withheld consent for disclosure of BNA information, or for any third party or collect call charged to any subscriber who has affirmatively withheld consent for disclosure of BNA information.

[53 FR 36145, July 6, 1993, as amended at 58 FR 65671, Dec. 16, 1993; 61 FR 8880, Mar. 6, 1996]

§ 64.1202 Public safety answering point do-not-call registry.

(a) As used in this section, the following terms are defined as:

(1) *Operators of automatic dialing or robocall equipment.* Any person or entity who uses an automatic telephone dialing system, as defined in section 227(a)(1) of the Communications Act of 1934, as amended, to make telephone calls with such equipment.

(2) *Public Safety Answering Point (PSAP).* A facility that has been designated to receive emergency calls and route them to emergency service personnel pursuant to section 222(h)(4) of the Communications Act of 1934, as amended. As used in this section, this term includes both primary and secondary PSAPs.

(3) *Emergency purpose.* A call made necessary in any situation affecting the health and safety of any person.

(b) *PSAP numbers and registration.* Each PSAP may designate a representative who shall be required to file a certification with the administrator of the PSAP registry, under penalty of law, that they are authorized and eligible to place numbers onto the PSAP Do-Not-Call registry on behalf of that PSAP. The designated PSAP representative shall provide contact information, including the PSAP represented, contact name, title, address, telephone number, and email address. Verified PSAPs shall be permitted to upload to the registry any PSAP telephone numbers associated with the provision of

emergency services or communications with other public safety agencies. On an annual basis designated PSAP representatives shall access the registry, review their numbers placed on the registry to ensure that they remain eligible for inclusion on the registry, and remove ineligible numbers.

(c) *Prohibiting the use of autodialers to contact registered PSAP numbers.* An operator of automatic dialing or robocall equipment is prohibited from using such equipment to contact any telephone number registered on the PSAP Do-Not-Call registry other than for an emergency purpose. This prohibition encompasses both voice and text calls.

(d) *Granting and tracking access to the PSAP registry.* An operator of automatic dialing or robocall equipment may not obtain access or use the PSAP Do-Not-Call registry until it provides to the designated registry administrator contact information that includes the operator's name and all alternative names under which the registrant operates, a business address, a contact person, the contact person's telephone number, the operator's email address, and all outbound telephone numbers used to place autodialed calls, including both actual originating numbers and numbers that are displayed on caller identification services, and thereafter obtains a unique identification number or password from the designated registry administrator. All such contact information provided to the designated registry administrator must be updated within 30 days of any change to such information. In addition, an operator of automatic dialing equipment must certify when it accesses the registry, under penalty of law, that it is accessing the registry solely to prevent autodialed calls to numbers on the registry.

(e) *Accessing the registry.* An operator of automatic dialing equipment or robocall equipment shall, to prevent such calls to any telephone number on the registry, access and employ a version of the PSAP Do-Not-Call registry obtained from the registry administrator no more than 31 days prior to the date any call is made, and shall maintain records documenting this process. It shall not be a violation of paragraph (c) of this section to contact a number added to the registry subsequent to the last required access to the registry by operators of automatic dialing or robocall equipment.

(f) *Restrictions on disclosing or dissemination of the PSAP registry.* No person or entity, including an operator of automatic dialing equipment or robocall equipment, may sell, rent, lease, purchase, share, or use the PSAP Do-Not-Call registry, or any part thereof, for any purpose except to comply with this section and any such state or Federal law enacted to prevent autodialed calls to telephone numbers in the PSAP registry.

[77 FR 71137, Nov. 29, 2012]

§ 64.1203 —Consortium registration process.

(a) The Enforcement Bureau shall issue a public notice no later than April 28 annually seeking registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls.

(b) Except as provided in paragraph (c) of this section, an entity that seeks to register as the single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls must submit a letter and associated documentation in response to the public notice issued pursuant to paragraph (a) of this section. In the letter, the entity must:

(1) Demonstrate that the consortium is a neutral third party competent to manage the private-led effort to trace back the origin of suspected unlawful robocalls;

(2) Include a copy of the consortium's written best practices, with an explanation thereof, regarding the management of its traceback efforts and regarding voice service providers' participation in the consortium's efforts to trace back the origin of suspected unlawful robocalls;

(3) Certify that, consistent with section 222(d)(2) of the Communications Act of 1934, as amended, the consortium's efforts will focus on fraudulent, abusive, or unlawful traffic;

(4) Certify that the consortium has notified the Commission that it intends to conduct traceback efforts of

suspected unlawful robocalls in advance of registration as the single consortium; and

(5) Certify that, if selected to be the registered consortium, it will:

(i) Remain in compliance with the requirements of paragraphs (b)(1) through (4) of this section;

(ii) Conduct an annual review to ensure compliance with the requirements set forth in paragraphs (b)(1) through (4) of this section; and

(iii) Promptly notify the Commission of any changes that reasonably bear on its certification.

(c) The entity selected to be the registered consortium will not be required to file the letter mandated in paragraph (b) of this section in subsequent years after the consortium's initial registration. The registered consortium's initial certifications, required by paragraph (b) of this section, will continue for the duration of each subsequent year unless the registered consortium notifies the Commission otherwise in writing on or before the date for filing letters set forth in the annual public notice issued pursuant to paragraph (a) of this section.

(d) The current registered consortium shall continue its traceback efforts until the effective date of the selection of any new registered consortium.

[85 FR 21798, Apr. 20, 2020]

§ 64.1204 Private entity submissions of robocall violations.

(a) Any private entity may submit to the Enforcement Bureau information related to a call made or a text message sent that the private entity has reason to believe was in violation of § 64.1200(a) or 47 U.S.C. 227(b).

(b) For the purposes of this section, the term ''private entity'' shall mean any entity other than a natural individual person or a public entity.

[86 FR 52843, Sept. 23, 2021, as amended at 87 FR 67827, Nov. 10, 2022]

Subpart M—Provision of Payphone Service

§ 64.1300 Payphone compensation obligation.

(a) For purposes of this subpart, a Completing Carrier is a long distance carrier or switch-based long distance reseller that completes a coinless access code or subscriber toll-free payphone call or a local exchange carrier that completes a local, coinless access code or subscriber toll-free payphone call.

(b) Except as provided herein, a Completing Carrier that completes a coinless access code or subscriber toll-free payphone call from a switch that the Completing Carrier either owns or leases shall compensate the payphone service provider for that call at a rate agreed upon by the parties by contract.

(c) The compensation obligation set forth herein shall not apply to calls to emergency numbers, calls by hearing disabled persons to a telecommunications relay service or local calls for which the caller has made the required coin deposit.

(d) In the absence of an agreement as required by paragraph (b) of this section, the carrier is obligated to compensate the payphone service provider at a per-call rate of $.494.

[71 FR 3014, Jan. 19, 2006]

§ 64.1301 Per-payphone compensation.

In the absence of a negotiated agreement to pay a different amount, each entity listed in Appendix C of the *Fifth Order on Reconsideration and Order on Remand* in CC Docket No. 96–128, FCC 02–292, must pay default compensation to payphone service providers for access code calls and payphone subscriber 800 calls for the period beginning April 21, 1999, in the amount listed in Appendix C for any payphone for any month during which per-call compensation for that payphone for that month was or is not paid by the listed entity. A complete copy of Appendix C is available at *www.fcc.gov*.

[83 FR 11428, Mar. 15, 2018]

§ 64.1310 Payphone compensation procedures.

(a) Unless the payphone service provider consents to an alternative compensation arrangement, each Completing Carrier identified in § 64.1300(a) shall compensate the payphone service provider in accordance with paragraphs (a)(1) through (a)(4) of this section. A payphone service provider may not unreasonably withhold its consent to an alternative compensation arrangement.

(1) Each Completing Carrier shall establish a call tracking system that accurately tracks coinless access code or subscriber toll-free payphone calls to completion.

(2) Each Completing Carrier shall pay compensation to payphone service providers on a quarterly basis for each completed payphone call identified in the Completing Carrier's quarterly report required by paragraph (a)(4) of this section.

(3) When payphone compensation is tendered for a quarter, a company official with the authority to bind the Completing Carrier shall submit to each payphone service provider to which compensation is tendered a sworn statement that the payment amount for that quarter is accurate and is based on 100% of all completed calls that originated from that payphone service provider's payphones. Instead of transmitting individualized statements to each payphone service provider, a Completing Carrier may provide a single, blanket sworn statement addressed to all payphone service providers to which compensation is tendered for that quarter and may notify the payphone service providers of the sworn statement through any electronic method, including transmitting the sworn statement with the § 64.1310(a)(4) quarterly report, or posting the sworn statement on the Completing Carrier or clearinghouse website. If a Completing Carrier chooses to post the sworn statement on its website, the Completing Carrier shall state in its § 64.1310(a)(4) quarterly report the web address of the sworn statement.

(4) At the conclusion of each quarter, the Completing Carrier shall submit to the payphone service provider, in computer readable format, a report on that quarter that includes:

(i) A list of the toll-free and access numbers dialed and completed by the Completing Carrier from each of that payphone service provider's payphones and the ANI for each payphone;

(ii) The volume of calls for each number identified in paragraph (a)(4)(i) of this section that were completed by the Completing Carrier;

(iii) The name, address, and phone number of the person or persons responsible for handling the Completing Carrier's payphone compensation; and

(iv) The carrier identification code (''CIC'') of all facilities-based long distance carriers that routed calls to the Completing Carrier, categorized according to the list of toll-free and access code numbers identified in paragraph (a)(4)(i) of this section.

(b) For purposes of this subpart, an Intermediate Carrier is a facilities-based long distance carrier that switches payphone calls to other facilities-based long distance carriers.

(c) Unless the payphone service provider agrees to other reporting arrangements, each Intermediate Carrier shall provide the payphone service provider with quarterly reports, in computer readable format, that include:

(1) A list of all the facilities-based long distance carriers to which the Intermediate Carrier switched toll-free and access code calls dialed from each of that payphone service provider's payphones;

(2) For each facilities-based long distance carrier identified in paragraph (c)(1) of this section, a list of the toll-free and access code numbers dialed from each of that payphone service provider's payphones that all local exchange carriers have delivered to the Intermediate Carrier and that the Intermediate Carrier switched to the identified facilities-based long distance carrier;

(3) The volume of calls for each number identified in paragraph (c)(2) of this section that the Intermediate Carrier has received from each of that payphone service provider's payphones, identified by their ANIs, and switched to each facilities-based long distance carrier identified in paragraph (c)(1) of this section; and

(4) The name, address and telephone number and other identifying information of the person or persons for each facilities-based long distance carrier identified in paragraph (c)(1) of this section who serves as the Intermediate Carrier's contact at each identified facilities-based long distance carrier.

(d) Local Exchange Carriers must provide to carriers required to pay compensation pursuant to §64.1300(a) a list of payphone numbers in their service areas. The list must be provided on a quarterly basis. Local Exchange Carriers must verify disputed numbers in a timely manner, and must maintain verification data for 18 months after close of the compensation period.

(e) Local Exchange Carriers must respond to all carrier requests for payphone number verification in connection with the compensation requirements herein, even if such verification is a negative response.

(f) A payphone service provider that seeks compensation for payphones that are not included on the Local Exchange Carrier's list satisfies its obligation to provide alternative reasonable verification to a payor carrier if it provides to that carrier:

(1) A notarized affidavit attesting that each of the payphones for which the payphone service provider seeks compensation is a payphone that was in working order as of the last day of the compensation period; and

(2) Corroborating evidence that each such payphone is owned by the payphone service provider seeking compensation and was in working order on the last day of the compensation period. Corroborating evidence shall include, at a minimum, the telephone bill for the last month of the billing quarter indicating use of a line screening service.

(g) Each Completing Carrier and each Intermediate Carrier must maintain verification data to support the quarterly reports submitted pursuant to paragraphs (a)(4) and (c) of this section for 27 months after the close of that quarter. This data must include the time and date that each call identified in paragraphs (a)(4) and (c) of this section was made. This data must be provided to the payphone service provider upon request.

[68 FR 62755, Nov. 6, 2003, as amended at 70 FR 722, Jan. 5, 2005; 83 FR 11428, Mar. 15, 2018]

§64.1330 State review of payphone entry and exit regulations and public interest payphones.

(a) Each state must review and remove any of its regulations applicable to payphones and payphone service providers that impose market entry or exit requirements.

(b) Each state must ensure that access to dialtone, emergency calls, and telecommunications relay service calls for the hearing disabled is available from all payphones at no charge to the caller.

(c) Each state must review its rules and policies to determine whether it has provided for public interest payphones consistent with applicable Commission guidelines, evaluate whether it needs to take measures to ensure that such payphones will continue to exist in light of the Commission's implementation of Section 276 of the Communications Act, and administer and fund such programs so that such payphones are supported fairly and equitably.

[61 FR 52323, Oct. 7, 1996, as amended at 71 FR 65751, Nov. 9, 2006]

§64.1340 Right to negotiate.

Unless prohibited by Commission order, payphone service providers have the right to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry interLATA and intraLATA calls from their payphones.

[61 FR 52323, Oct. 7, 1996]

Subpart N—Expanded Interconnection

§64.1401 Expanded interconnection.

(a) Every local exchange carrier that is classified as a Class A company under §32.11 of this chapter and that is not a National Exchange Carrier Association interstate tariff participant, as provided in part 69, subpart G of this

chapter, shall offer expanded interconnection for interstate special access services at their central offices that are classified as end offices or serving wire centers, and at other rating points used for interstate special access.

(b) The local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate switched transport services:

(1) In their central offices that are classified as end offices or serving wire centers, as well as at all tandem offices housed in buildings containing such carriers' end offices or serving wire centers for which interstate switched transport expanded interconnection has been tariffed;

(2) Upon *bona fide* request, in tandem offices housed in buildings not containing such carriers' end offices or serving wire centers, or in buildings containing the carriers' end offices or serving wire centers for which interstate switched transport expanded interconnection has not been tariffed; and

(3) Upon *bona fide* request, at remote nodes/switches that serve as rating points for interstate switched transport and that are capable of routing outgoing interexchange access traffic to interconnectors and in which interconnectors can route terminating traffic to such carriers. No such carrier is required to enhance remote nodes/switches or to build additional space to accommodate interstate switched transport expanded interconnection at these locations.

(c) The local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access and switched transport services through virtual collocation, except that they may offer physical collocation, instead of virtual collocation, in specific central offices, as a service subject to nonstreamlined communications common carrier regulation under Title II of the Communications Act (47 U.S.C. 201–228).

(d) For the purposes of this subpart, physical collocation means an offering that enables interconnectors:

(1) To place their own equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, within or upon the local exchange carrier's central office buildings;

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special access services;

(3) To enter the local exchange carrier's central office buildings, subject to reasonable terms and conditions, to install, maintain, and repair the equipment described in paragraph (d)(1) of this section; and

(4) To obtain reasonable amounts of space in central offices for the equipment described in paragraph (d)(1) of this section, allocated on a first-come, first-served basis.

(e) For purposes of this subpart, virtual collocation means an offering that enables interconnectors:

(1) To designate or specify equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, to be located within or upon the local exchange carrier's buildings, and dedicated to such interconnectors' use,

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special and switched access services, and

(3) To monitor and control their communications channels terminating in such equipment.

(f) Under both physical collocation offering and virtual collocation offerings for expanded interconnection of fiber optic facilities, local exchange carriers shall provide:

(1) An interconnection point or points at which the fiber optic cable carrying an interconnectors' circuits can enter each local exchange carrier location, provided that the local exchange carrier shall designate interconnection points as close as reasonably possible to each location; and

(2) At least two such interconnection points at any local exchange carrier location at which there are at least two

entry points for the local exchange carrier's cable facilities, and space is available for new facilities in at least two of those entry points.

(g) The local exchange carriers specified in paragraph (a) of this section shall offer signalling for tandem switching, as defined in §69.2(vv) of this chapter, at central offices that are classified as equal office end offices or serving wire centers, or at signal transfer points if such information is offered via common channel signalling.

[57 FR 54331, Nov. 18, 1992, as amended at 58 FR 48762, Sept. 17, 1993; 59 FR 32930, June 27, 1994; 59 FR 38930, Aug. 1, 1994]

§ 64.1402 Rights and responsibilities of interconnectors.

(a) For the purposes of this subpart, an interconnector means a party taking expanded interconnection offerings. Any party shall be eligible to be an interconnector.

(b) Interconnectors shall have the right, under expanded interconnection, to interconnect their fiber optic systems and, where reasonably feasible, their microwave transmission facilities.

(c) Interconnectors shall not be allowed to use interstate special access expanded interconnection offerings to connect their transmission facilities with the local exchange carrier's interstate switched services until that local exchange carrier's tariffs implementing expanded interconnection for switched transport have become effective.

[57 FR 54331, Nov. 18, 1992, as amended at 61 FR 43160, Aug. 21, 1996]

Subpart O—Interstate Pay-Per-Call and Other Information Services

SOURCE: 58 FR 44773, Aug. 25, 1993, unless otherwise noted.

§ 64.1501 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Pay-per-call service* means any service:

(1) In which any person provides or purports to provide:

(i) Audio information or audio entertainment produced or packaged by such person;

(ii) Access to simultaneous voice conversation services; or

(iii) Any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

(2) For which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

(3) Which is accessed through use of a 900 number;

(4) Provided, however, such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.

(b) *Presubscription or comparable arrangement* means a contractual agreement in which:

(1) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(2) The service provider agrees to notify the consumer of any future rate changes;

(3) The consumer agrees to use the service on the terms and conditions disclosed by the service provider; and

(4) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers;

(5) Provided, however, that disclosure of a credit, prepaid account, debit, charge, or calling card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if an introductory message containing the information specified in §64.1504(c)(2) is provided prior to, and independent of, assessment of any charges. No other action taken by a

consumer during the course of a call to an information service, for which charges are assessed, can create a presubscription or comparable arrangement.

(6) Provided, that a presubscription arrangement to obtain information services provided by means of a toll-free number shall conform to the requirements of § 64.1504(c).

(c) *Calling card* means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.

[61 FR 39087, July 26, 1996]

§ 64.1502 Limitations on the provision of pay-per-call services.

Any common carrier assigning a telephone number to a provider of interstate pay-per-call service shall require, by contract or tariff, that such provider comply with the provisions of this subpart and of titles II and III of the Telephone Disclosure and Dispute Resolution Act (Pub. L. No. 102–556) (TDDRA) and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

§ 64.1503 Termination of pay-per-call and other information programs.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call service shall specify by contract or tariff that pay-per-call programs not in compliance with § 64.1502 shall be terminated following written notice to the information provider. The information provider shall be afforded a period of no less than seven and no more than 14 days during which a program may be brought into compliance. Programs not in compliance at the expiration of such period shall be terminated immediately.

(b) Any common carrier providing transmission or billing and collection services to a provider of interstate information service through any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, shall promptly investigate any complaint that such service is not provided in accordance with § 64.1504 or § 64.1510(c), and, if the carrier reasonably determines that the complaint is valid, may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this § 64.1504(c)(1).

[61 FR 39087, July 26, 1996]

§ 64.1504 Restrictions on the use of toll-free numbers.

A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, in a manner that would result in:

(a) The calling party or the subscriber to the originating line being assessed, by virtue of completing the call, a charge for a call;

(b) The calling party being connected to a pay-per-call service;

(c) The calling party being charged for information conveyed during the call unless:

(1) The calling party has a written agreement (including an agreement transmitted through electronic medium) that specifies the material terms and conditions under which the information is offered and includes:

(i) The rate at which charges are assessed for the information;

(ii) The information provider's name;

(iii) The information provider's business address;

(iv) The information provider's regular business telephone number;

(v) The information provider's agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information;

(vi) The subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card and, if a subscriber elects to pay by means of phone bill, a clear explanation that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

(vii) A unique personal identification number or other subscriber-specific identifier that must be used to obtain access to the information service and

instructions on its use, and, in addition, assures that any charges for services accessed by use of the subscriber's personal identification number or subscriber-specific identifier be assessed to subscriber's source of payment elected pursuant to paragraph (c)(1)(vi) of this section; or

(2) The calling party is charged for the information by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory message that:

(i) Clearly states that there is a charge for the call;

(ii) Clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

(iii) Explains that the charges must be billed on either a credit, prepaid, debit, charge, or calling card;

(iv) Asks the caller for the card number;

(v) Clearly states that charges for the call begin at the end of the introductory message; and

(vi) Clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

(d) The calling party being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products; and

(e) The calling party being assessed by virtue of the caller being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.

(f) Provided, however, that:

(1) Notwithstanding paragraph (c)(1) of this section, a written agreement that meets the requirements of that paragraph is not required for:

(i) Calls utilizing telecommunications devices for the deaf;

(ii) Directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

(iii) Any purchase of goods or of services that are not information services.

(2) The requirements of paragraph (c)(2) of this section shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message: *Provided*, That information providers shall disable such a bypass mechanism after the institution of any price increase for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

[61 FR 39087, July 26, 1996, as amended at 69 FR 61154, Oct. 15, 2004]

§ 64.1505 Restrictions on collect telephone calls.

(a) No common carrier shall provide interstate transmission or billing and collection services to an entity offering any service within the scope of § 64.1501(a)(1) that is billed to a subscriber on a collect basis at a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call.

(b) No common carrier shall provide interstate transmission services for any collect information services billed to a subscriber at a tariffed rate unless the called party has taken affirmative action clearly indicating that it accepts the charges for the collect service.

§ 64.1506 Number designation.

Any interstate service described in § 64.1501(a)(1)–(2), and not subject to the exclusions contained in § 64.1501(a)(4), shall be offered only through telephone numbers beginning with a 900 service access code.

[59 FR 46770, Sept. 12, 1994]

§ 64.1507 Prohibition on disconnection or interruption of service for failure to remit pay-per-call and similar service charges.

No common carrier shall disconnect or interrupt in any manner, or order the disconnection or interruption of, a telephone subscriber's local exchange or long distance telephone service as a result of that subscriber's failure to pay:

(a) Charges for interstate pay-per-call service;

(b) Charges for interstate information services provided pursuant to a presubscription or comparable arrangement; or

(c) Charges for interstate information services provided on a collect

basis which have been disputed by the subscriber.

[58 FR 44773, Aug. 25, 1993, as amended at 59 FR 46770, Sept. 12, 1994]

§ 64.1508 Blocking access to 900 service.

(a) Local exchange carriers must offer to their subscribers, where technically feasible, an option to block access to services offered on the 900 service access code. Blocking is to be offered at no charge, on a one-time basis, to:

(1) All telephone subscribers during the period from November 1, 1993 through December 31, 1993; and

(2) Any subscriber who subscribes to a new telephone number for a period of 60 days after the new number is effective.

(b) For blocking requests not within the one-time option or outside the time frames specified in paragraph (a) of this section, and for unblocking requests, local exchange carriers may charge a reasonable one-time fee. Requests by subscribers to remove 900 services blocking must be in writing.

(c) The terms and conditions under which subscribers may obtain 900 services blocking are to be included in tariffs filed with this Commission.

§ 64.1509 Disclosure and dissemination of pay-per-call information.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services shall make readily available, at no charge, to Federal and State agencies and all other interested persons:

(1) A list of the telephone numbers for each of the pay-per-call services it carries;

(2) A short description of each such service;

(3) A statement of the total cost or the cost per minute and any other fees for each such service; and

(4) A statement of the pay-per-call service provider's name, business address, and business telephone number.

(b) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services and offering billing and collection services to such provider shall:

(1) Establish a local or toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by that carrier; and

(2) Provide to all its telephone subscribers, either directly or through contract with any local exchange carrier providing billing and collection services to that carrier, a disclosure statement setting forth all rights and obligations of the subscriber and the carrier with respect to the use and payment of pay-per-call services. Such statement must include the prohibition against disconnection of basic communications services for failure to pay pay-per-call charges established by § 64.1507, the right of a subscriber to obtain blocking in accordance with § 64.1508, the right of a subscriber not to be billed for pay-per-call services not offered in compliance with federal laws and regulations established by § 64.1510(a)(1), and the possibility that a subscriber's access to 900 services may be involuntarily blocked pursuant to § 64.1512 for failure to pay legitimate pay-per-call charges. Disclosure statements must be forwarded to:

(i) All telephone subscribers no later than 60 days after these regulations take effect;

(ii) All new telephone subscribers no later than 60 days after service is established;

(iii) All telephone subscribers requesting service at a new location no later than 60 days after service is established; and

(iv) Thereafter, to all subscribers at least once per calendar year, at intervals of not less than 6 months nor more than 18 months.

[58 FR 44773, Aug. 25, 1993, as amended at 61 FR 55582, Oct. 28, 1996]

§ 64.1510 Billing and collection of pay-per-call and similar service charges.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services and offering billing and collection services to such provider shall:

(1) Ensure that a subscriber is not billed for interstate pay-per-call services that such carrier knows or reasonably should know were provided in violation of the regulations set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA or any other federal law;

(2) In any billing to telephone subscribers that includes charges for any interstate pay-per-call service:

(i) Include a statement indicating that:

(A) Such charges are for non-communications services;

(B) Neither local nor long distances services can be disconnected for nonpayment although an information provider may employ private entities to seek to collect such charges;

(C) 900 number blocking is available upon request; and

(D) Access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges;

(ii) Display any charges for pay-per-call services in a part of the bill that is identified as not being related to local and long distance telephone charges;

(iii) Specify, for each pay-per-call charge made, the type of service, the amount of the charge, and the date, time, and, for calls billed on a time-sensitive basis, the duration of the call; and

(iv) Identify the local or toll-free number established in accordance with § 64.1509(b)(1).

(b) Any common carrier offering billing and collection services to an entity providing interstate information services on a collect basis shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i), (A), (B), (D) and (a)(2)(ii) of this section.

(c) If a subscriber elects, pursuant to § 64.1504(c)(1)(vi), to pay by means of a phone bill for any information service provided by through any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, the phone bill shall:

(1) Include, in prominent type, the following disclaimer: ''Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services;'' and

(2) Clearly list the 800 or other toll-free number dialed.

[58 FR 44773, Aug. 25, 1993, as amended at 59 FR 46771, Sept. 12, 1994; 61 FR 39088, July 26, 1996]

§ 64.1511 Forgiveness of charges and refunds.

(a) Any carrier assigning a telephone number to a provider of interstate pay-per-call services or providing transmission for interstate information services provided pursuant to a presubscription or comparable arrangement or on a collect basis, and providing billing and collection for such services, shall establish procedures for the handling of subscriber complaints regarding charges for those services. A billing carrier is afforded discretion to set standards for determining when a subscriber's complaint warrants forgiveness, refund or credit of interstate pay-per-call or information services charges provided that such charges must be forgiven, refunded, or credited when a subscriber has complained about such charges and either this Commission, the Federal Trade Commission, or a court of competent jurisdiction has found or the carrier has determined, upon investigation, that the service has been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA. Carriers shall observe the record retention requirements set forth in § 42.6 of this chapter except that relevant records shall be retained by carriers beyond the requirements of part 42 of this chapter when a complaint is pending at the time the specified retention period expires.

(b) Any carrier assigning a telephone number to a provider of interstate pay-per-call services but not providing billing and collection services for such services, shall, by tariff or contract, require that the provider and/or its billing and collection agents have in place procedures whereby, upon complaint, pay-per-call charges may be forgiven, refunded, or credited, provided that such charges must be forgiven, refunded, or credited when a subscriber

has complained about such charges and either this Commission, the Federal Trade Commission, or a court of competent jurisdiction has found or the carrier has determined, upon investigation, that the service has been offered in violation of federal law or the regulations that are either set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA.

[58 FR 44773, Aug. 25, 1993, as amended at 59 FR 46771, Sept. 12, 1994]

§ 64.1512 Involuntary blocking of pay-per-call services.

Nothing in this subpart shall preclude a common carrier or information provider from blocking or ordering the blocking of its interstate pay-per-call programs from numbers assigned to subscribers who have incurred, but not paid, legitimate pay-per-call charges, except that a subscriber who has filed a complaint regarding a particular pay-per-call program pursuant to procedures established by the Federal Trade Commission under title III of the TDDRA shall not be involuntarily blocked from access to that program while such a complaint is pending. This restriction is not intended to preclude involuntary blocking when a carrier or IP has decided in one instance to sustain charges against a subscriber but that subscriber files additional separate complaints.

§ 64.1513 Verification of charitable status.

Any common carrier assigning a telephone number to a provider of interstate pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain verification that the entity or individual for whom contributions are solicited has been granted tax exempt status by the Internal Revenue Service.

§ 64.1514 Generation of signalling tones.

No common carrier shall assign a telephone number for any pay-per-call service that employs broadcast advertising which generates the audible tones necessary to complete a call to a pay-per-call service.

§ 64.1515 Recovery of costs.

No common carrier shall recover its cost of complying with the provisions of this subpart from local or long distance ratepayers.

Subpart P—Calling Party Telephone Number; Privacy

SOURCE: 59 FR 18319, Apr. 18, 1994, unless otherwise noted.

§ 64.1600 Definitions.

(a) *Aggregate information.* The term ''aggregate information'' means collective data that relate to a group or category of services or customers, from which individual customer identities or characteristics have been removed.

(b) *ANI.* The term ''ANI'' (automatic number identification) refers to the delivery of the calling party's billing number by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(c) *Caller identification information.* The term ''caller identification information'' means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a voice service or a text message sent using a text messaging service.

(d) *Caller identification service.* The term ''caller identification service'' means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a voice service or a text message sent using a text messaging service.

(e) *Calling party number.* The term ''Calling Party Number'' refers to the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network.

(f) *Charge number.* The term ''charge number'' refers to the delivery of the calling party's billing number in a Signaling System 7 environment by a

local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(g) *Information regarding the origination.* The term ''information regarding the origination'' means any:

(1) Telephone number;

(2) Portion of a telephone number, such as an area code;

(3) Name;

(4) Location information;

(5) Billing number information, including charge number, ANI, or pseudo-ANI; or

(6) Other information regarding the source or apparent source of a telephone call.

(h) *Interconnected VoIP service.* The term ''interconnected VoIP service'' has the same meaning given the term ''interconnected VoIP service'' in 47 CFR 9.3 as it currently exists or may hereafter be amended.

(i) *Intermediate provider.* The term ''intermediate provider'' means any entity that carries or processes traffic that traverses or will traverse the public switched telephone network (PSTN) at any point insofar as that entity neither originates nor terminates that traffic.

(j) *N11 service code.* For purposes of this subpart, the term ''N11 service code'' means an abbreviated dialing code that allows telephone users to connect with a particular node in the network by dialing only three digits, of which the first digit is any digit other than '1' or '0', and each of the last two digits is '1'.

(k) *Multimedia message service (MMS).* The term ''multimedia message service'' or MMS refers to a wireless messaging service that is an extension of the SMS protocol and can deliver a variety of media, and enables users to send pictures, videos, and attachments over wireless messaging channels.

(l) *Privacy indicator.* The term ''privacy indicator'' refers to information, contained in the calling party number parameter of the call set-up message associated with an interstate call on an Signaling System 7 network, that indicates whether the calling party authorizes presentation of the calling party number to the called party.

(m) *Short message service (SMS).* The term ''short message service'' or SMS refers to a wireless messaging service that enables users to send and receive short text messages, typically 160 characters or fewer, to or from mobile phones and can support a host of applications.

(n) *Signaling System 7.* The term ''Signaling System 7'' (SS7) refers to a carrier to carrier out-of-band signaling network used for call routing, billing and management.

(o) *Text message.* The term ''text message'':

(1) Means a message consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number or N11 service code;

(2) Includes a short message service (SMS) message, and a multimedia message service (MMS) message and

(3) Does not include:

(i) A real-time, two-way voice or video communication; or

(ii) A message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in paragraph (o)(2) of this section.

(p) *Text messaging service.* The term ''text messaging service'' means a service that enables the transmission or receipt of a text message, including a service provided as part of or in connection with a voice service.

(q) *Threatening call.* The term ''threatening call'' is any call that conveys an emergency involving danger of death or serious physical injury to any person requiring disclosure without delay of information relating to the emergency.

(r) *Voice service.* The term ''voice service'':

(1) Means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934, as amended; and

(2) Includes transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine.

[60 FR 29490, June 5, 1995, as amended at 76 FR 43205, July 20, 2011; 76 FR 73882, Nov. 29, 2011; 82 FR 56917, Dec. 1, 2017; 84 FR 45678, Aug. 30, 2019]

§ 64.1601 Delivery requirements and privacy restrictions.

(a) *Delivery.* Except as provided in paragraphs (d) and (e) of this section:

(1) Telecommunications carriers and providers of interconnected Voice over Internet Protocol (VoIP) services, in originating interstate or intrastate traffic on the public switched telephone network (PSTN) or originating interstate or intrastate traffic that is destined for the PSTN (collectively ''PSTN Traffic''), are required to transmit for all PSTN Traffic the telephone number received from or assigned to or otherwise associated with the calling party to the next provider in the path from the originating provider to the terminating provider. This provision applies regardless of the voice call signaling and transmission technology used by the carrier or VoIP provider. Entities subject to this provision that use Signaling System 7 (SS7) are required to transmit the calling party number (CPN) associated with all PSTN Traffic in the SS7 ISUP (ISDN User Part) CPN field to interconnecting providers, and are required to transmit the calling party's charge number (CN) in the SS7 ISUP CN field to interconnecting providers for any PSTN Traffic where CN differs from CPN. Entities subject to this provision who use multi-frequency (MF) signaling are required to transmit CPN, or CN if it differs from CPN, associated with all PSTN Traffic in the MF signaling automatic numbering information (ANI) field.

(2) Intermediate providers within an interstate or intrastate call path that originates and/or terminates on the PSTN must pass unaltered to subsequent providers in the call path signaling information identifying the telephone number, or billing number, if different, of the calling party that is received with a call. This requirement applies to SS7 information including but not limited to CPN and CN, and also applies to MF signaling information or other signaling information intermediate providers receive with a call. This requirement also applies to VoIP signaling messages, such as calling party and charge information identifiers contained in Session Initiation Protocol (SIP) header fields, and to equivalent identifying information as used in other VoIP signaling technologies, regardless of the voice call signaling and transmission technology used by the carrier or VoIP provider.

(b) *Privacy.* Except as provided in paragraph (d) of this section, originating carriers using Signaling System 7 and offering or subscribing to any service based on Signaling System 7 functionality will recognize *67 dialed as the first three digits of a call (or 1167 for rotary or pulse dialing phones) as a caller's request that the CPN not be passed on an interstate call. Such carriers providing line blocking services will recognize *82 as a caller's request that the CPN be passed on an interstate call. No common carrier subscribing to or offering any service that delivers CPN may override the privacy indicator associated with an interstate call. Carriers must arrange their CPN-based services, and billing practices, in such a manner that when a caller requests that the CPN not be passed, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party. The terminating carrier must act in accordance with the privacy indicator unless the call is made to a called party that subscribes to an ANI or charge number based service and the call is paid for by the called party.

(c) *Charges.* No common carrier subscribing to or offering any service that delivers calling party number may

(1) Impose on the calling party charges associated with per call blocking of the calling party's telephone number, or

(2) Impose charges upon connecting carriers for the delivery of the calling party number parameter or its associated privacy indicator.

(d) *Exemptions.* Section 64.1601(a) and (b) shall not apply when:

(1) A call originates from a payphone.

(2) A local exchange carrier with Signaling System 7 capability does not have the software to provide *67 or *82 functionalities. Such carriers are prohibited from passing CPN.

(3) A Private Branch Exchange or Centrex system does not pass end user CPN. Centrex systems that rely on *6 or *8 for a function other than CPN blocking or unblocking, respectively, are also exempt if they employ alternative means of blocking or unblocking.

(4) CPN delivery—

(i) Is used solely in connection with calls within the same limited system, including (but not limited to) a Centrex system, virtual private network, or Private Branch Exchange;

(ii) Is used on a public agency's emergency telephone line or in conjunction with 911 emergency services, on a telephone line to contact non-public emergency services licensed by the state or municipality, or on any entity's emergency assistance poison control telephone line; or

(iii) Is provided in connection with legally authorized call tracing or trapping procedures specifically requested by a law enforcement agency.

(e) Any person or entity that engages in telemarketing, as defined in section 64.1200(f)(10) must transmit caller identification information.

(1) For purposes of this paragraph, caller identification information must include either CPN or ANI, and, when available by the telemarketer's carrier, the name of the telemarketer. It shall not be a violation of this paragraph to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller on behalf of which the telemarketing call is placed and the seller's customer service telephone number. The telephone number so provided must permit any individual to make a do-not-call request during regular business hours.

(2) Any person or entity that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

(3) Tax-exempt nonprofit organizations are not required to comply with this paragraph.

(f) Paragraph (b) of this section shall not apply when CPN delivery is made in connection with a threatening call. Upon report of such a threatening call by law enforcement on behalf of the threatened party, the carrier will provide any CPN of the calling party to law enforcement and, as directed by law enforcement, to security personnel for the called party for the purpose of identifying the party responsible for the threatening call.

(g) For law enforcement or security personnel of the called party investigating the threat:

(1) The CPN on incoming restricted calls may not be passed on to the line called;

(2) Any system used to record CPN must be operated in a secure way, limiting access to designated telecommunications and security personnel, as directed by law enforcement;

(3) Telecommunications and security personnel, as directed by law enforcement, may access restricted CPN data only when investigating phone calls of a threatening and serious nature, and shall document that access as part of the investigative report;

(4) Carriers transmitting restricted CPN information must take reasonable measures to ensure security of such communications;

(5) CPN information must be destroyed in a secure manner after a reasonable retention period; and

(6) Any violation of these conditions must be reported promptly to the Commission.

[60 FR 29490, June 5, 1995; 60 FR 54449, Oct. 24, 1995, as amended at 62 FR 34015, June 24, 1997; 68 FR 44179, July 25, 2003; 71 FR 75122, Dec. 14, 2006; 76 FR 73882, Nov. 29, 2011; 82 FR 56917, Dec. 1, 2017]

§ 64.1602 Restrictions on use and sale of telephone subscriber information provided pursuant to automatic number identification or charge number services.

(a) Any common carrier providing Automatic Number Identification or charge number services on interstate calls to any person shall provide such services under a contract or tariff containing telephone subscriber information requirements that comply with this subpart. Such requirements shall:

(1) Permit such person to use the telephone number and billing information for billing and collection, routing,

screening, and completion of the originating telephone subscriber's call or transaction, or for services directly related to the originating telephone subscriber's call or transaction;

(2) Prohibit such person from reusing or selling the telephone number or billing information without first

(i) Notifying the originating telephone subscriber and,

(ii) Obtaining the affirmative consent of such subscriber for such reuse or sale; and,

(3) Prohibit such person from disclosing, except as permitted by paragraphs (a) (1) and (2) of this section, any information derived from the automatic number identification or charge number service for any purpose other than

(i) Performing the services or transactions that are the subject of the originating telephone subscriber's call,

(ii) Ensuring network performance security, and the effectiveness of call delivery,

(iii) Compiling, using, and disclosing aggregate information, and

(iv) Complying with applicable law or legal process.

(b) The requirements imposed under paragraph (a) of the section shall not prevent a person to whom automatic number identification or charge number services are provided from using

(1) The telephone number and billing information provided pursuant to such service, and

(2) Any information derived from the automatic number identification or charge number service, or from the analysis of the characteristics of a telecommunications transmission, to offer a product or service that is directly related to the products or services previously acquired by that customer from such person. Use of such information is subject to the requirements of 47 CFR 64.1200 and 64.1504(c).

[60 FR 29490, June 5, 1995]

§ 64.1603 Customer notification.

Any common carrier participating in the offering of services providing calling party number, ANI, or charge number on interstate calls must notify its subscribers, individually or in conjunction with other carriers, that their telephone numbers may be identified to a called party. Such notification must be made not later than December 1, 1995, and at such times thereafter as to ensure notice to subscribers. The notification must be effective in informing subscribers how to maintain privacy by dialing *67 (or 1167 for rotary or pulse-dialing phones) on interstate calls. The notice shall inform subscribers whether dialing *82 (or 1182 for rotary or pulse-dialing phones) on interstate calls is necessary to present calling party number to called parties. For ANI or charge number services for which such privacy is not provided, the notification shall inform subscribers of the restrictions on the reuse or sale of subscriber information.

[60 FR 29491, June 5, 1995; 60 FR 54449, Oct. 24, 1995]

§ 64.1604 Prohibition on transmission of inaccurate or misleading caller identification information.

(a) No person or entity in the United States, nor any person or entity outside the United States if the recipient is within the United States, shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly, or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information in connection with any voice service or text messaging service.

(b)Paragraph (a) of this section shall not apply to:

(1) Lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or

(2) Activity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.

(c) A person or entity that blocks or seeks to block a caller identification service from transmitting or displaying that person or entity's own caller identification information pursuant to § 64.1601(b) of this part shall not be liable for violating the prohibition in paragraph (a) of this section. This paragraph (c) does not relieve any person or entity that engages in telemarketing, as defined in § 64.1200(f)(10)

of this part, of the obligation to transmit caller identification information under § 64.1601(e).

[76 FR 43205, July 20, 2011, as amended at 84 FR 45678, Aug. 30, 2019]

§ 64.1605 Effective date.

The provisions of §§ 64.1600 and 64.1602 are effective April 12, 1995. The provisions of §§ 64.1601 and 64.1603 are effective December 1, 1995, except §§ 64.1601 and 64.1603 do not apply to public payphones and partylines until January 1, 1997.

[60 FR 29491, June 5, 1995; 60 FR 54449, Oct. 24, 1995. Redesignated at 76 FR 43205, July 20, 2011]

§ 64.1606 Private entity submissions of spoofing violations.

(a) Any private entity may submit to the Enforcement Bureau information related to a call or text message that the private entity has reason to believe included misleading or inaccurate caller identification information in violation of § 64.1604(a) or 47 U.S.C. 227(e).

(b) For the purposes of this section, the term ''private entity'' shall mean any entity other than a natural individual person or a public entity.

[86 FR 52843, Sept. 23, 2021, as amended at 87 FR 67827, Nov. 10, 2022]

Subpart Q—Implementation of Section 273(d)(5) of the Communications Act: Dispute Resolution Regarding Equipment Standards

SOURCE: 61 FR 24903, May 17, 1996, unless otherwise noted.

§ 64.1700 Purpose and scope.

The purpose of this subpart is to implement the Telecommunications Act of 1996 which amended the Communications Act by creating section 273(d)(5), 47 U.S.C. 273(d)(5). Section 273(d) sets forth procedures to be followed by non-accredited standards development organizations when these organizations set industry-wide standards and generic requirements for telecommunications equipment or customer premises equipment. The statutory procedures allow outside parties to fund and participate in setting the organization's standards and require the organization and the parties to develop a process for resolving any technical disputes. In cases where all parties cannot agree to a mutually satisfactory dispute resolution process, section 273(d)(5) requires the Commission to prescribe a dispute resolution process.

§ 64.1701 Definitions.

For purposes of this subpart, the terms *accredited standards development organization*, *funding party*, *generic requirement*, and *industry-wide* have the same meaning as found in 47 U.S.C. 273.

§ 64.1702 Procedures.

If a non-accredited standards development organization (NASDO) and the funding parties are unable to agree unanimously on a dispute resolution process prior to publishing a text for comment pursuant to 47 U.S.C. 273(d)(4)(A)(v), a funding party may use the default dispute resolution process set forth in section 64.1703.

§ 64.1703 Dispute resolution default process.

(a) *Tri-Partite Panel.* Technical disputes governed by this section shall be resolved in accordance with the recommendation of a three-person panel, subject to a vote of the funding parties in accordance with paragraph (b) of this section. Persons who participated in the generic requirements or standards development process are eligible to serve on the panel. The panel shall be selected and operate as follows:

(1) Within two (2) days of the filing of a dispute with the NASDO invoking the dispute resolution default process, both the funding party seeking dispute resolution and the NASDO shall select a representative to sit on the panel;

(2) Within four (4) days of their selection, the two panelists shall select a neutral third panel member to create a tri-partite panel;

(3) The tri-partite panel shall, at a minimum, review the proposed text of the NASDO and any explanatory material provided to the funding parties by the NASDO, the comments and any alternative text provided by the funding party seeking dispute resolution, any

relevant standards which have been established or which are under development by an accredited-standards development organization, and any comments submitted by other funding parties;

(4) Any party in interest submitting information to the panel for consideration (including the NASDO, the party seeking dispute resolution and the other funding parties) shall be asked by the panel whether there is knowledge of patents, the use of which may be essential to the standard or generic requirement being considered. The fact that the question was asked along with any affirmative responses shall be recorded, and considered, in the panel's recommendation; and

(5) The tri-partite panel shall, within fifteen (15) days after being established, decide by a majority vote, the issue or issues raised by the party seeking dispute resolution and produce a report of their decision to the funding parties. The tri-partite panel must adopt one of the five options listed below:

(i) The NASDO's proposal on the issue under consideration;

(ii) The position of the party seeking dispute resolution on the issue under consideration;

(iii) A standard developed by an accredited standards development organization that addresses the issue under consideration;

(iv) A finding that the issue is not ripe for decision due to insufficient technical evidence to support the soundness of any one proposal over any other proposal; or

(v) Any other resolution that is consistent with the standard described in section 64.1703(a)(6).

(6) The tri-partite panel must choose, from the five options outlined above, the option that they believe provides the most technically sound solution and base its recommendation upon the substantive evidence presented to the panel. The panel is not precluded from taking into account complexity of implementation and other practical considerations in deciding which option is most technically sound. Neither of the disputants (i.e., the NASDO and the funding party which invokes the dispute resolution process) will be permitted to participate in any decision to reject the mediation panel's recommendation.

(b) The tri-partite panel's recommendation(s) must be included in the final industry-wide standard or industry-wide generic requirement, unless three-fourths of the funding parties who vote decide within thirty (30) days of the filing of the dispute to reject the recommendation and accept one of the options specified in paragraphs (a)(5) (i) through (v) of this section. Each funding party shall have one vote.

(c) All costs sustained by the tri-partite panel will be incorporated into the cost of producing the industry-wide standard or industry-wide generic requirement.

§ 64.1704 Frivolous disputes/penalties.

(a) No person shall willfully refer a dispute to the dispute resolution process under this subpart unless to the best of his knowledge, information and belief there is good ground to support the dispute and the dispute is not interposed for delay.

(b) Any person who fails to comply with the requirements in paragraph (a) of this section, may be subject to forfeiture pursuant to section 503(b) of the Communications Act, 47 U.S.C. 503(b).

Subpart R—Geographic Rate Averaging and Rate Integration

AUTHORITY: 47 U.S.C. §§151, 154(i), 201–205, 214(e), 215 and 254(g).

§ 64.1801 Geographic rate averaging and rate integration.

(a) The rates charged by providers of interexchange telecommunications services to subscribers in rural and high-cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.

(b) A provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each U.S. state at rates no higher than the rates charged to its subscribers in any other state.

[61 FR 42564, Aug. 16, 1996]

Subpart S—Nondominant Interexchange Carrier Certifications Regarding Geographic Rate Averaging and Rate Integration Requirements

§ 64.1900 Nondominant interexchange carrier certifications regarding geographic rate averaging and rate integration requirements.

(a) A nondominant provider of interexchange telecommunications services, which provides detariffed interstate, domestic, interexchange services, shall file with the Commission, on an annual basis, a certification that it is providing such services in compliance with its geographic rate averaging and rate integration obligations pursuant to section 254(g) of the Communications Act of 1934, as amended.

(b) The certification filed pursuant to paragraph (a) of this section shall be signed by an officer of the company under oath.

[61 FR 59366, Nov. 22, 1996]

Subpart T—Separate Affiliate Requirements for Incumbent Independent Local Exchange Carriers That Provide In-Region, Interstate Domestic Interexchange Services or In-Region International Interexchange Services

SOURCE: 62 FR 36017, July 3, 1997, unless otherwise noted.

§ 64.1901 Basis and purpose.

(a) *Basis.* These rules are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of these rules is to regulate the provision of in-region, interstate, domestic, interexchange services and in-region international interexchange services by incumbent independent local exchange carriers.

§ 64.1902 Terms and definitions.

Terms used in this part have the following meanings:

Books of account. Books of account refer to the financial accounting system a company uses to record, in monetary terms, the basic transactions of a company. These books of account reflect the company's assets, liabilities, and equity, and the revenues and expenses from operations. Each company has its own separate books of account.

Incumbent Independent Local Exchange Carrier (Incumbent Independent LEC). The term incumbent independent local exchange carrier means, with respect to an area, the independent local exchange carrier that:

(1) On February 8, 1996, provided telephone exchange service in such area; and

(2)(i) On February 8, 1996, was deemed to be a member of the exchange carrier association pursuant to § 69.601(b) of this title; or

(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in paragraph (2)(i) of this section. The Commission may also, by rule, treat an independent local exchange carrier as an incumbent independent local exchange carrier pursuant to section 251(h)(2) of the Communications Act of 1934, as amended.

Independent Local Exchange Carrier (Independent LEC). Independent local exchange carriers are local exchange carriers, including GTE, other than the BOCs.

Independent Local Exchange Carrier Affiliate (Independent LEC Affiliate). An independent local exchange carrier affiliate is a carrier that is owned (in whole or in part) or controlled by, or under common ownership (in whole or in part) or control with, an independent local exchange carrier.

In-region service. In-region service means telecommunications service originating in an independent local exchange carrier's local service areas or 800 service, private line service, or their equivalents that:

(1) Terminate in the independent LEC's local exchange areas; and

(2) Allow the called party to determine the interexchange carrier, even if the service originates outside the independent LEC's local exchange areas.

Local Exchange Carrier. The term local exchange carrier means any person that is engaged in the provision of

telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of that term.

[64 FR 44425, Aug. 16, 1999]

§ 64.1903 Obligations of all incumbent independent local exchange carriers.

(a) An incumbent independent LEC providing in-region, interstate, interexchange services or in-region international interexchange services shall provide such services through an affiliate that satisfies the following requirements:

(1) The affiliate shall maintain separate books of account from its affiliated exchange companies. Nothing in this section requires the affiliate to maintain separate books of account that comply with part 32 of this title;

(2) The affiliate shall not jointly own transmission or switching facilities with its affiliated exchange companies. Nothing in this section prohibits an affiliate from sharing personnel or other resources or assets with an affiliated exchange company; and

(3) The affiliate shall acquire any services from its affiliated exchange companies for which the affiliated exchange companies are required to file a tariff at tariffed rates, terms, and conditions. Nothing in this section shall prohibit the affiliate from acquiring any unbundled network elements or exchange services for the provision of a telecommunications service from its affiliated exchange companies, subject to the same terms and conditions as provided in an agreement approved under section 252 of the Communications Act of 1934, as amended.

(b) Except as provided in paragraph (b)(1) of this section, the affiliate required in paragraph (a) of this section shall be a separate legal entity from its affiliated exchange companies. The affiliate may be staffed by personnel of its affiliated exchange companies, housed in existing offices of its affiliated exchange companies, and use its affiliated exchange companies' marketing and other services, subject to paragraph (a)(3) of this section.

(1) For an incumbent independent LEC that provides in-region, interstate domestic interexchange services or in-region international interexchange services using no interexchange switching or transmission facilities or capability of the LEC's own (i.e., ''independent LEC reseller,'') the affiliate required in paragraph (a) of this section may be a separate corporate division of such incumbent independent LEC. All other provisions of this Subpart applicable to an independent LEC affiliate shall continue to apply, as applicable, to such separate corporate division.

(2) [Reserved]

[64 FR 44425, Aug. 16, 1999, as amended at 71 FR 65751, Nov. 9, 2006]

Subpart U—Customer Proprietary Network Information

SOURCE: 82 FR 44419, Sept. 21, 2017 unless otherwise noted.

§ 64.2001 Basis and purpose.

(a) *Basis.* The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of the rules in this subpart is to implement section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222.

§ 64.2003 Definitions.

(a) *Account information.* ''Account information'' is information that is specifically connected to the customer's service relationship with the carrier, including such things as an account number or any component thereof, the telephone number associated with the account, or the bill's amount.

(b) *Address of record.* An ''address of record,'' whether postal or electronic, is an address that the carrier has associated with the customer's account for at least 30 days.

(c) *Affiliate.* The term ''affiliate'' has the same meaning given such term in section 3(1) of the Communications Act of 1934, as amended, 47 U.S.C. 153(1).

(d) *Call detail information.* Any information that pertains to the transmission of specific telephone calls, including, for outbound calls, the number

called, and the time, location, or duration of any call and, for inbound calls, the number from which the call was placed, and the time, location, or duration of any call.

(e) *Communications-related services.* The term ''communications-related services'' means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.

(f) *Customer.* A customer of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.

(g) *Customer proprietary network information (CPNI).* The term ''customer proprietary network information (CPNI)'' has the same meaning given to such term in section 222(h)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(1).

(h) *Customer premises equipment (CPE).* The term ''customer premises equipment (CPE)'' has the same meaning given to such term in section 3(14) of the Communications Act of 1934, as amended, 47 U.S.C. 153(14).

(i) *Information services typically provided by telecommunications carriers.* The phrase ''information services typically provided by telecommunications carriers'' means only those information services (as defined in section 3(20) of the Communication Act of 1934, as amended, 47 U.S.C. 153(20)) that are typically provided by telecommunications carriers, such as Internet access or voice mail services. Such phrase ''information services typically provided by telecommunications carriers,'' as used in this subpart, shall not include retail consumer services provided using Internet Web sites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services.

(j) *Local exchange carrier (LEC).* The term ''local exchange carrier (LEC)'' has the same meaning given to such term in section 3(26) of the Communications Act of 1934, as amended, 47 U.S.C. 153(26).

(k) *Opt-in approval.* The term ''opt-in approval'' refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the carrier obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the carrier's request consistent with the requirements set forth in this subpart.

(l) *Opt-out approval.* The term ''opt-out approval'' refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in § 64.2008(d)(1) after the customer is provided appropriate notification of the carrier's request for consent consistent with the rules in this subpart.

(m) *Readily available biographical information.* ''Readily available biographical information'' is information drawn from the customer's life history and includes such things as the customer's social security number, or the last four digits of that number; mother's maiden name; home address; or date of birth.

(n) *Subscriber list information (SLI).* The term ''subscriber list information (SLI)'' has the same meaning given to such term in section 222(h)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(3).

(o) *Telecommunications carrier or carrier.* The terms ''telecommunications carrier'' or ''carrier'' shall have the same meaning as set forth in section 3(44) of the Communications Act of 1934, as amended, 47 U.S.C. 153(44). For the purposes of this subpart, the term ''telecommunications carrier'' or ''carrier'' shall include an entity that provides interconnected VoIP service, as that term is defined in section 9.3 of these rules.

(p) *Telecommunications service.* The term ''telecommunications service'' has the same meaning given to such term in section 3(46) of the Communications Act of 1934, as amended, 47 U.S.C. 153(46).

(q) *Telephone number of record.* The telephone number associated with the underlying service, not the telephone number supplied as a customer's ''contact information.''

(r) *Valid photo ID.* A ''valid photo ID'' is a government-issued means of personal identification with a photograph such as a driver's license, passport, or comparable ID that is not expired.

§ 64.2005 Use of customer proprietary network information without customer approval.

(a) Any telecommunications carrier may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (*i.e.*, local, interexchange, and CMRS) to which the customer already subscribes from the same carrier, without customer approval.

(1) If a telecommunications carrier provides different categories of service, and a customer subscribes to more than one category of service offered by the carrier, the carrier is permitted to share CPNI among the carrier's affiliated entities that provide a service offering to the customer.

(2) If a telecommunications carrier provides different categories of service, but a customer does not subscribe to more than one offering by the carrier, the carrier is not permitted to share CPNI with its affiliates, except as provided in § 64.2007(b).

(b) A telecommunications carrier may not use, disclose, or permit access to CPNI to market to a customer service offerings that are within a category of service to which the subscriber does not already subscribe from that carrier, unless that carrier has customer approval to do so, except as described in paragraph (c) of this section.

(1) A wireless provider may use, disclose, or permit access to CPNI derived from its provision of CMRS, without customer approval, for the provision of CPE and information service(s). A wireline carrier may use, disclose or permit access to CPNI derived from its provision of local exchange service or interexchange service, without customer approval, for the provision of CPE and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.

(2) A telecommunications carrier may not use, disclose or permit access to CPNI to identify or track customers that call competing service providers. For example, a local exchange carrier may not use local service CPNI to track all customers that call local service competitors.

(c) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, as described in this paragraph (c).

(1) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(2) CMRS providers may use, disclose, or permit access to CPNI for the purpose of conducting research on the health effects of CMRS.

(3) LECs, CMRS providers, and entities that provide interconnected VoIP service as that term is defined in § 9.3 of this chapter, may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

(d) A telecommunications carrier may use, disclose, or permit access to CPNI to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services.

§ 64.2007 Approval required for use of customer proprietary network information.

(a) A telecommunications carrier may obtain approval through written, oral or electronic methods.

(1) A telecommunications carrier relying on oral approval shall bear the burden of demonstrating that such approval has been given in compliance with the Commission's rules in this part.

(2) Approval or disapproval to use, disclose, or permit access to a customer's CPNI obtained by a telecommunications carrier must remain in effect until the customer revokes or limits such approval or disapproval.

(3) A telecommunications carrier must maintain records of approval, whether oral, written or electronic, for at least one year.

(b) *Use of opt-out and opt-in approval processes.* A telecommunications carrier may, subject to opt-out approval or opt-in approval, use its customer's individually identifiable CPNI for the purpose of marketing communications-related services to that customer. A telecommunications carrier may, subject to opt-out approval or opt-in approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents and its affiliates that provide communications-related services. A telecommunications carrier may also permit such persons or entities to obtain access to such CPNI for such purposes. Except for use and disclosure of CPNI that is permitted without customer approval under § 64.2005, or that is described in this paragraph, or as otherwise provided in section 222 of the Communications Act of 1934, as amended, a telecommunications carrier may only use, disclose, or permit access to its customer's individually identifiable CPNI subject to opt-in approval.

§ 64.2008 Notice required for use of customer proprietary network information.

(a) *Notification, generally.* (1) Prior to any solicitation for customer approval, a telecommunications carrier must provide notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI.

(2) A telecommunications carrier must maintain records of notification, whether oral, written or electronic, for at least one year.

(b) Individual notice to customers must be provided when soliciting approval to use, disclose, or permit access to customers' CPNI.

(c) *Content of notice.* Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to, the customer's CPNI.

(1) The notification must state that the customer has a right, and the carrier has a duty, under federal law, to protect the confidentiality of CPNI.

(2) The notification must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI at any time.

(3) The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, carriers may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

(4) The notification must be comprehensible and must not be misleading.

(5) If written notification is provided, the notice must be clearly legible, use sufficiently large type, and be placed in an area so as to be readily apparent to a customer.

(6) If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

(7) A carrier may state in the notification that the customer's approval to use CPNI may enhance the carrier's ability to offer products and services tailored to the customer's needs. A carrier also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

(8) A carrier may not include in the notification any statement attempting to encourage a customer to freeze third-party access to CPNI.

(9) The notification must state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes from that carrier is valid until

the customer affirmatively revokes or limits such approval or denial.

(10) A telecommunications carrier's solicitation for approval must be proximate to the notification of a customer's CPNI rights.

(d) *Notice requirements specific to opt-out.* A telecommunications carrier must provide notification to obtain opt out approval through electronic or written methods, but not by oral communication (except as provided in paragraph (f) of this section). The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(1) Carriers must wait a 30-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. A carrier may, in its discretion, provide for a longer period. Carriers must notify customers as to the applicable waiting period for a response before approval is assumed.

(i) In the case of an electronic form of notification, the waiting period shall begin to run from the date on which the notification was sent; and

(ii) In the case of notification by mail, the waiting period shall begin to run on the third day following the date that the notification was mailed.

(2) Carriers using the opt-out mechanism must provide notices to their customers every two years.

(3) Telecommunications carriers that use email to provide opt-out notices must comply with the following requirements in addition to the requirements generally applicable to notification:

(i) Carriers must obtain express, verifiable, prior approval from consumers to send notices via email regarding their service in general, or CPNI in particular;

(ii) Carriers must allow customers to reply directly to emails containing CPNI notices in order to opt-out;

(iii) Opt-out email notices that are returned to the carrier as undeliverable must be sent to the customer in another form before carriers may consider the customer to have received notice;

(iv) Carriers that use email to send CPNI notices must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and

(v) Telecommunications carriers must make available to every customer a method to opt-out that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. Carriers may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.

(e) *Notice requirements specific to opt-in.* A telecommunications carrier may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(f) *Notice requirements specific to one-time use of CPNI.* (1) Carriers may use oral notice to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether carriers use opt-out or opt-in approval based on the nature of the contact.

(2) The contents of any such notification must comply with the requirements of paragraph (c) of this section, except that telecommunications carriers may omit any of the following notice provisions if not relevant to the limited use for which the carrier seeks CPNI:

(i) Carriers need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election;

(ii) Carriers need not advise customers that they may share CPNI with their affiliates or third parties and need not name those entities, if the limited CPNI usage will not result in use by, or disclosure to, an affiliate or third party;

(iii) Carriers need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as carriers explain to customers that the scope of the approval the carrier seeks is limited to one-time use; and

(iv) Carriers may omit disclosure of the precise steps a customer must take

in order to grant or deny access to CPNI, as long as the carrier clearly communicates that the customer can deny access to his CPNI for the call.

§ 64.2009 Safeguards required for use of customer proprietary network information.

(a) Telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI.

(b) Telecommunications carriers must train their personnel as to when they are and are not authorized to use CPNI, and carriers must have an express disciplinary process in place.

(c) All carriers shall maintain a record, electronically or in some other manner, of their own and their affiliates' sales and marketing campaigns that use their customers' CPNI. All carriers shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Carriers shall retain the record for a minimum of one year.

(d) Telecommunications carriers must establish a supervisory review process regarding carrier compliance with the rules in this subpart for outbound marketing situations and maintain records of carrier compliance for a minimum period of one year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.

(e) A telecommunications carrier must have an officer, as an agent of the carrier, sign and file with the Commission a compliance certificate on an annual basis. The officer must state in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart. In addition, the carrier must include an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. This filing must be made annually with the Enforcement Bureau on or before March 1 in EB Docket No. 06–36, for data pertaining to the previous calendar year.

(f) Carriers must provide written notice within five business days to the Commission of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly.

(1) The notice shall be in the form of a letter, and shall include the carrier's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether the relevant state commission(s) has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.

(2) Such notice must be submitted even if the carrier offers other methods by which consumers may opt-out.

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

(a) *Safeguarding CPNI.* Telecommunications carriers must take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI. Telecommunications carriers must properly authenticate a customer prior to disclosing CPNI based on customer-initiated telephone contact, online account access, or an in-store visit.

(b) *Telephone access to CPNI.* Telecommunications carriers may only disclose call detail information over the telephone, based on customer-initiated telephone contact, if the customer first provides the carrier with a password, as described in paragraph (e) of this section, that is not prompted by the carrier asking for readily available biographical information, or account information. If the customer does not provide a password, the telecommunications carrier may only disclose call

detail information by sending it to the customer's address of record, or by calling the customer at the telephone number of record. If the customer is able to provide call detail information to the telecommunications carrier during a customer-initiated call without the telecommunications carrier's assistance, then the telecommunications carrier is permitted to discuss the call detail information provided by the customer.

(c) *Online access to CPNI.* A telecommunications carrier must authenticate a customer without the use of readily available biographical information, or account information, prior to allowing the customer online access to CPNI related to a telecommunications service account. Once authenticated, the customer may only obtain online access to CPNI related to a telecommunications service account through a password, as described in paragraph (e) of this section, that is not prompted by the carrier asking for readily available biographical information, or account information.

(d) *In-store access to CPNI.* A telecommunications carrier may disclose CPNI to a customer who, at a carrier's retail location, first presents to the telecommunications carrier or its agent a valid photo ID matching the customer's account information.

(e) *Establishment of a password and back-up authentication methods for lost or forgotten passwords.* To establish a password, a telecommunications carrier must authenticate the customer without the use of readily available biographical information, or account information. Telecommunications carriers may create a back-up customer authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information, or account information. If a customer cannot provide the correct password or the correct response for the back-up customer authentication method, the customer must establish a new password as described in this paragraph.

(f) *Notification of account changes.* Telecommunications carriers must notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, and must not reveal the changed information or be sent to the new account information.

(g) *Business customer exemption.* Telecommunications carriers may bind themselves contractually to authentication regimes other than those described in this section for services they provide to their business customers that have both a dedicated account representative and a contract that specifically addresses the carriers' protection of CPNI.

§ 64.2011 Notification of customer proprietary network information security breaches.

(a) A telecommunications carrier shall notify law enforcement of a breach of its customers' CPNI as provided in this section. The carrier shall not notify its customers or disclose the breach publicly, whether voluntarily or under state or local law or these rules, until it has completed the process of notifying law enforcement pursuant to paragraph (b) of this section.

(b) As soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the telecommunications carrier shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility. The Commission will maintain a link to the reporting facility at *http://www.fcc.gov/eb/cpni*.

(1) Notwithstanding any state law to the contrary, the carrier shall not notify customers or disclose the breach to the public until 7 full business days have passed after notification to the USSS and the FBI except as provided in paragraphs (b)(2) and (b)(3) of this section.

(2) If the carrier believes that there is an extraordinarily urgent need to notify any class of affected customers sooner than otherwise allowed under paragraph (b)(1) of this section, in order to avoid immediate and irreparable harm, it shall so indicate in its notification and may proceed to immediately notify its affected customers only after consultation with the relevant investigating agency. The carrier shall cooperate with the relevant investigating agency's request to minimize any adverse effects of such customer notification.

(3) If the relevant investigating agency determines that public disclosure or notice to customers would impede or compromise an ongoing or potential criminal investigation or national security, such agency may direct the carrier not to so disclose or notify for an initial period of up to 30 days. Such period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the carrier when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency shall provide in writing its initial direction to the carrier, any subsequent extension, and any notification that notice will no longer impede or compromise a criminal investigation or national security and such writings shall be contemporaneously logged on the same reporting facility that contains records of notifications filed by carriers.

(c) *Customer notification.* After a telecommunications carrier has completed the process of notifying law enforcement pursuant to paragraph (b) of this section, it shall notify its customers of a breach of those customers' CPNI.

(d) *Recordkeeping.* All carriers shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the USSS and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. Carriers shall retain the record for a minimum of 2 years.

(e) *Definitions.* As used in this section, a ''breach'' has occurred when a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI.

(f) This section does not supersede any statute, regulation, order, or interpretation in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this section, and then only to the extent of the inconsistency.

Subpart V—Rural Call Completion

SOURCE: 78 FR 76239, Dec. 17, 2013, unless otherwise noted.

§ 64.2101 Definitions.

For purposes of this subpart, the following definitions will apply:

Affiliate. The term ''affiliate'' has the same meaning as in 47 U.S.C. 153(2).

Call attempt. The term ''call attempt'' means a call that results in transmission by the covered provider toward an incumbent local exchange carrier (LEC) of the initial call setup message, regardless of the voice call signaling and transmission technology used.

Covered provider. The term ''covered provider'' means a provider of long-distance voice service that makes the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of the providers' affiliates. A covered provider may be a local exchange carrier as defined in § 64.4001(e), an interexchange carrier as defined in § 64.4001(d), a provider of commercial mobile radio service as defined in § 20.3 of this chapter, a provider of interconnected voice over Internet Protocol (VoIP) service as defined in 47 U.S.C. 153(25), or a provider of non-interconnected VoIP service as defined in 47 U.S.C. 153(36) to the extent such a provider offers the capability to place calls to the public switched telephone network.

Covered voice communication. The term ''covered voice communication''

means a voice communication (including any related signaling information) that is generated—

(1) From the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and

(2) Through any service provided by a covered provider.

Initial long-distance call path choice. The term ''initial long-distance call path choice'' means the static or dynamic selection of the path for a long-distance call based on the called number of the individual call.

Intermediate provider. The term ''intermediate provider'' means any entity that—

(1) Enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—

(i) From an end user connection using a North American Numbering Plan resource; or

(ii) To an end user connection using such a numbering resource; and

(2) Does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.

Long-distance voice service. For purposes of subparts V and W, the term ''long-distance voice service'' includes interstate interLATA, intrastate interLATA, interstate interexchange, intrastate interexchange, intraLATA toll, inter-MTA interstate and inter-MTA intrastate voice services.

Operating company number (OCN). The term ''operating company number'' means a four-place alphanumeric code that uniquely identifies a local exchange carrier.

Rural OCN. The term ''rural OCN'' means an operating company number that uniquely identifies an incumbent LEC (as defined in § 51.5 of this chapter) that is a rural telephone company (as defined in § 51.5 of this chapter). The term ''nonrural OCN'' means an operating company number that uniquely identifies an incumbent LEC (as defined in § 51.5 of this chapter) that is not a rural telephone company (as defined in § 51.5 of this chapter). We direct NECA to update the lists of rural and nonrural OCNs annually and provide them to the Wireline Competition Bureau in time for the Bureau to publish the lists no later than November 15. These lists will be the definitive lists of rural OCNs and nonrural OCNs for purposes of this subpart for the following calendar year.

Rural telephone company. The term ''rural telephone company'' shall have the same meaning as in § 51.5 of this chapter.

[78 FR 76239, Dec. 17, 2013, as amended at 79 FR 73227, Dec. 10, 2014; 80 FR 1007, Jan. 8, 2015; 82 FR 19615, Apr. 28, 2017; 83 FR 21737, May 10, 2018; 83 FR 47308, Sept. 19, 2018]

§ 64.2103 Retention of call attempt records.

(a) Except as described in § 64.2107, each covered provider shall record and retain information about each call attempt to a rural OCN from subscriber lines for which the covered provider makes the initial long-distance call path choice in a readily retrievable form for a period that includes the six most recent complete calendar months.

(b) Affiliated covered providers may record and retain the information required by this rule individually or in the aggregate.

(c) A call attempt that is returned by an intermediate provider to the covered provider and reassigned shall count as a single call attempt.

(d) Call attempts to toll-free numbers, as defined in § 52.101(f) of this chapter, are excluded from these requirements.

(e) IntraLATA toll calls carried entirely over the covered provider's network or handed off by the covered provider directly to the terminating local exchange carrier or directly to the tandem switch serving the terminating local exchange carrier's end office (terminating tandem), are excluded from these requirements.

(f) The information contained in each record shall include:

(1) The calling party number;

(2) The called party number;

(3) The date;

(4) The time;

(5) An indication whether the call attempt was handed off to an intermediate provider or not and, if so, which intermediate provider;

(6) The rural OCN associated with the called party number;

(7) An indication whether the call attempt was interstate or intrastate;

(8) An indication whether the call attempt was answered, which may take the form of an SS7 signaling cause code or SIP signaling message code associated with each call attempt; and

(9) An indication whether the call attempt was completed to the incumbent local exchange carrier but signaled as busy, ring no answer, or unassigned number. This indication may take the form of an SS7 signaling cause code or SIP signaling message code associated with each call attempt.

(g) The provisions of this section shall expire on September 15, 2020.

[78 FR 76239, Dec. 17, 2013, as amended at 79 FR 73227, Dec. 10, 2014; 82 FR 11594, Mar. 4, 2015; 82 FR 19615, Apr. 28, 2017; 84 FR 25706, June 4, 2019]

§ 64.2105 [Reserved]

§ 64.2107 Reduced recording and retention requirements for qualifying providers under the Safe Harbor.

(a)(1) A covered provider may reduce its recording and retention requirements under § 64.2103 if it files one of the following certifications, signed by an officer or director of the covered provider regarding the accuracy and completeness of the information provided, in WC Docket No. 13–39.

I ___ (name), ___ (title), an officer of ___ (entity), certify that___ (entity) uses no intermediate providers;

or

I ___ (name), ___ (title), an officer of ___ (entity), certify that___ (entity) restricts by contract any intermediate provider to which a call is directed by ___ (entity) from permitting more than one additional intermediate provider in the call path before the call reaches the terminating provider or terminating tandem. I certify that any nondisclosure agreement with an intermediate provider permits ___ (entity) to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the rural incumbent local exchange carrier(s) whose incoming long-distance calls are affected by the intermediate provider's performance. I certify that ___ (entity) has a process in place to monitor the performance of its intermediate providers.

(2) Covered providers that file the second certification must describe the process they have in place to monitor the performance of their intermediate providers.

(b) A covered provider that meets the requirements described in paragraph (a) of this section must comply with the data retention requirements in § 64.2103 for a period that includes only the three most recent complete calendar months, so long as it continues to meet the requirements of paragraph (a) of this section. A covered provider that ceases to meet the requirements described in paragraph (a) of this must immediately begin retaining data for six months, as required by § 64.2103.

(c) Affiliated covered providers may meet the requirements of paragraph (a) of this section individually or in the aggregate.

(d) The provisions of this section shall expire on September 15, 2020.

[78 FR 76239, Dec. 17, 2013, as amended at 80 FR 11594, Mar. 4, 2015; 82 FR 19615, Apr. 28, 2017; 83 FR 21737, May 10, 2018; 84 FR 25706, June, 4, 2019]

§ 64.2109 Safe harbor from intermediate provider service quality standards.

(a)(1) A covered provider may qualify as a safe harbor provider under this subpart if it files, in WC Docket No. 13–39, one of the following certifications, signed under penalty of perjury by an officer or director of the covered provider regarding the accuracy and completeness of the information provided:

''I ___(name), ____(title), an officer of ____(entity), certify that ____(entity) uses no intermediate providers;'' or

''I ____(name), ____(title), an officer of ____(entity), certify that ____(entity) restricts by contract any intermediate provider to which a call is directed by ____(entity) from permitting more than one additional intermediate provider in the call path before the call reaches

the terminating provider or terminating tandem. I certify that any non-disclosure agreement with an intermediate provider permits ___(entity) to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the rural incumbent local exchange carrier(s) whose incoming long-distance calls are affected by the intermediate provider's performance. I certify that ___(entity) has a process in place to monitor the performance of its intermediate providers.''

(2) The certification in paragraph (a)(1) of this section must be submitted:

(i) For the first time on or before February 26, 2019; and

(ii) Annually thereafter.

(b) The requirements of § 64.2119 shall not apply to intermediate provider traffic transmitted by safe harbor qualifying covered providers functioning as intermediate providers.

[84 FR 25706, June 4, 2019]

§ 64.2111 Covered provider rural call completion practices.

For each intermediate provider with which it contracts, a covered provider shall:

(a) Monitor the intermediate provider's performance in the completion of call attempts to rural telephone companies from subscriber lines for which the covered provider makes the initial long-distance call path choice; and

(b) Based on the results of such monitoring, take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider, including removing the intermediate provider from a particular route after sustained inadequate performance.

[83 FR 21737, May 10, 2018]

§ 64.2113 Covered provider point of contact.

Covered providers shall make publicly available contact information for the receipt and handling of rural call completion issues. Covered providers must designate a telephone number and email address for the express purpose of receiving and responding to any rural call completion issues. Covered providers shall include this information on their websites, and the required contact information must be easy to find and use. Covered providers shall keep this information current and update it to reflect any changes within ten (10) business days. Covered providers shall ensure that any staff reachable through this contact information has the technical capability to promptly respond to and address rural call completion issues. Covered providers must respond to communications regarding rural call completion issues via the contact information required under this rule as soon as reasonably practicable and, under ordinary circumstances, within a single business day.

[83 FR 21738, May 10, 2018]

§ 64.2115 Registration of Intermediate Providers.

(a) *Registration.* An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission shall register with the Commission in accordance with this section. The intermediate provider shall provide the following information in its registration:

(1) The intermediate provider's business name(s) and primary address;

(2) The name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider's regulatory contact and/or designated agent for service of process;

(3) All business names that the intermediate provider has used in the past;

(4) The state(s) in which the intermediate provider provides service;

(5) The name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues, and;

(6) The name(s), business address, and business telephone number(s) for an executive leadership contact, such as the chief executive officer, chief operating officer, or owner(s) of the intermediate provider, or persons performing an

equivalent function, who directs or manages the entity.

(b) *Submission of registration.* An intermediate provider that is subject to the registration requirement in paragraph (a) of this section shall submit the information described therein to the intermediate provider registry on the Commission's website. The registration shall be made under penalty of perjury.

(c) *Changes in information.* An intermediate provider must update its submission to the intermediate provider registry on the Commission's website within 10 business days of any change to the information it must provide pursuant to paragraph (a) of this section.

[83 FR 47308, Sept. 19, 2018]

§ 64.2117 Use of Registered Intermediate Providers.

(a) *Prohibition on use of unregistered intermediate providers.* A covered provider shall not use an intermediate provider to carry, route, or transmit covered voice communications unless such intermediate provider is registered pursuant to section 64.2115 of this subpart.

(b) *Force majeure exemption.* (1) If, due to a *force majeure* for which a covered provider has instituted a disaster recovery plan, there are no registered intermediate providers available to carry, route, or transmit covered voice communications, a covered provider need not comply with paragraph (a) of this section for a period of up to 180 days with respect to those covered voice communications. A covered provider shall submit to the Commission a certification, signed by a corporate officer or official with authority to bind the corporation, and knowledge of the details of the covered provider's inability to comply with our rules, explaining the circumstances justifying an exemption under this section as soon as practicable.

(2) A covered provider seeking an extension of the exemption described in paragraph (b)(1) of this section must submit a request for an extension of the exemption period to the Commission. Such an extension request shall, at minimum, include a status report on the covered provider's attempts to comply with paragraph (a) of this section; and a statement detailing how the covered provider intends to ensure that calls are completed notwithstanding the unavailability of registered intermediate providers.

(3) For purposes of this section, ''*force majeure*'' means a highly disruptive event beyond the control of the covered provider, such as a natural disaster or a terrorist attack.

(4) For purposes of this section, ''disaster recovery plan'' means a disaster response plan developed by the covered provider for the purpose of responding to a *force majeure* event.

[83 FR 47309, Sept. 19, 2018]

§ 64.2119 Intermediate provider service quality standards.

Any intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission must abide by the following service quality standards:

(a) *Duty to complete calls.* Intermediate providers must take steps reasonably calculated to ensure that all covered voice communications that traverse their networks are delivered to their destination. An intermediate provider may violate this duty to complete calls if it knows, or should know, that calls are not being completed to certain areas, and it engages in acts or omissions that allow, or effectively allow, these conditions to persist.

(b) *Rural call completion performance monitoring.* For each intermediate provider with which it contracts, an intermediate provider shall:

(1) Monitor the intermediate provider's performance in the completion of call attempts to rural telephone companies; and

(2) Based on the results of such monitoring, take steps that are reasonably calculated to correct any identified performance problem with the intermediate provider, including removing that provider for sustained poor performance.

(c) *Registration of subsequent intermediate providers.* Intermediate providers shall ensure that any additional intermediate providers to which they

hand off calls are registered with the Commission pursuant to § 64.2115.

[84 FR 25706, June 4, 2019]

Subpart W—Ring Signaling Integrity

SOURCE: 78 FR 76241, Dec. 17, 2013, unless otherwise noted.

§ 64.2201 Ringing indication requirements.

(a) A long-distance voice service provider shall not convey a ringing indication to the calling party until the terminating provider has signaled that the called party is being alerted to an incoming call, such as by ringing.

(1) If the terminating provider signals that the called party is being alerted and provides an audio tone or announcement, originating providers must cease any locally generated audible tone or announcement and convey the terminating provider's tone or announcement to the calling party.

(2) The requirements in this paragraph apply to all voice call signaling and transmission technologies and to all long-distance voice service providers, including local exchange carriers as defined in § 64.4001(e), interexchange carriers as defined in § 64.4001(d), providers of commercial mobile radio service as defined in § 20.3 of this chapter, providers of interconnected voice over Internet Protocol (VoIP) service as defined in 47 U.S.C. 153(25), and providers of non-interconnected VoIP service as defined in 47 U.S.C. 153(36) to the extent such providers offer the capability to place calls to or receive calls from the public switched telephone network.

(b) Intermediate providers must return unaltered to providers in the call path any signaling information that indicates that the terminating provider is alerting the called party, such as by ringing.

(1) An intermediate provider may not generate signaling information that indicates the terminating provider is alerting the called party. An intermediate provider must pass the signaling information indicating that the called party is being alerted unaltered to subsequent providers in the call path.

(2) Intermediate providers must also return unaltered any audio tone or announcement provided by the terminating provider.

(3) In this section, the term ''intermediate provider'' has the same meaning as in § 64.1600(f).

(4) The requirements in this section apply to all voice call signaling and transmission technologies.

(c) The requirements in paragraphs (a) and (b) of this section apply to both interstate and intrastate calls, as well as to both originating and terminating international calls while they are within the United States.

Subpart X—Subscriber List Information

SOURCE: 64 FR 53947, Oct. 5, 2000, unless otherwise noted.

§ 64.2301 Basis and purpose.

(a) *Basis.* These rules are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of these rules is to implement section 222(e) of the Communications Act of 1934, as amended, 47 U.S.C. 222. Section 222(e) requires that ''a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.''

§ 64.2305 Definitions.

Terms used in this subpart have the following meanings:

(a) *Base file subscriber list information.* A directory publisher requests base file subscriber list information when the publisher requests, as of a given date, all of a carrier's subscriber list information that the publisher wishes to include in one or more directories.

(b) *Business subscriber.* Business subscriber refers to a subscriber to telephone exchange service for businesses.

(c) *Primary advertising classification.* A primary advertising classification is

the principal business heading under which a subscriber to telephone exchange service for businesses chooses to be listed in the yellow pages, if the carrier either assigns that heading or is obligated to provide yellow pages listings as part of telephone exchange service to businesses. In other circumstances, a primary advertising classification is the classification of a subscriber to telephone exchange service as a business subscriber.

(d) *Residential subscriber*. Residential subscriber refers to a subscriber to telephone exchange service that is not a business subscriber.

(e) *Subscriber list information*. Subscriber list information is any information:

(1) Identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(2) That the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(f) *Telecommunications carrier*. A telecommunications carrier is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226(a)(2)).

(g) *Telephone exchange service*. Telephone exchange service means:

(1) Service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or

(B) Comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

(h) *Updated subscriber list information*. A directory publisher requests updated subscriber list information when the publisher requests changes to all or any part of a carrier's subscriber list information occurring between specified dates.

§ 64.2309 Provision of subscriber list information.

(a) A telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

(b) The obligation under paragraph (a) to provide a particular telephone subscriber's subscriber list information extends only to the carrier that provides that subscriber with telephone exchange service.

§ 64.2313 Timely basis.

(a) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information on a timely basis only if the carrier provides the requested information to the requesting directory publisher either:

(1) At the time at which, or according to the schedule under which, the directory publisher requests that the subscriber list information be provided;

(2) When the carrier does not receive at least thirty days advance notice of the time the directory publisher requests that subscriber list information be provided, on the first business day that is at least thirty days from date the carrier receives that request; or

(3) At a time determined in accordance with paragraph (b) of this section.

(b) If a carrier's internal systems do not permit the carrier to provide subscriber list information within either of the time frames specified in paragraph (a)(1) of this section, the carrier shall:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that the requested schedule cannot be accommodated and tell the directory publisher which schedules can be accommodated; and

(2) Adhere to the schedule the directory publisher chooses from among the available schedules.

§ 64.2317 Unbundled basis.

(a) A directory publisher may request that a carrier unbundle subscriber list information on any basis for the purpose of publishing one or more directories.

(b) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information on an unbundled basis only if the carrier provides:

(1) The listings the directory publisher requests and no other listings, products, or services; or

(2) Subscriber list information on a basis determined in accordance with paragraph (c) of this section.

(c) If the carrier's internal systems do not permit it unbundle subscriber list information on the basis a directory publisher requests, the carrier must:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that it cannot unbundle subscriber list information on the requested basis and tell the directory publisher the bases on which the carrier can unbundle subscriber list information; and

(2) In accordance with paragraph (d) of this section, provide subscriber list information to the directory publisher unbundled on the basis the directory publisher chooses from among the available bases.

(d) If a carrier provides a directory publisher listings in addition to those the directory publisher requests, the carrier may impose charges for, and the directory publisher may publish, only the requested listings.

(e) A carrier must not require directory publishers to purchase any product or service other than subscriber list information as a condition of obtaining subscriber list information.

§ 64.2321 Nondiscriminatory rates, terms, and conditions.

For purposes of § 64.2309, a telecommunications carrier provides subscriber list information under nondiscriminatory rates, terms, and conditions only if the carrier provides subscriber list information gathered in its capacity as a provider of telephone exchange service to a requesting directory publisher at the same rates, terms, and conditions that the carrier provides the information to its own directory publishing operation, its directory publishing affiliate, or other directory publishers.

§ 64.2325 Reasonable rates, terms, and conditions.

(a) For purposes of § 64.2309, a telecommunications carrier will be presumed to provide subscriber list information under reasonable rates if its rates are no more than $0.04 a listing for base file subscriber list information and no more than $0.06 a listing for updated subscriber list information.

(b) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information under reasonable terms and conditions only if the carrier does not restrict a directory publisher's choice of directory format.

§ 64.2329 Format.

(a) A carrier shall provide subscriber list information obtained in its capacity as a provider of telephone exchange service to a requesting directory publisher in the format the publisher specifies, if the carrier's internal systems can accommodate that format.

(b) If a carrier's internal systems do not permit the carrier to provide subscriber list information in the format the directory publisher specifies, the carrier shall:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that the requested format cannot be accommodated and tell the directory publisher which formats can be accommodated; and

(2) Provide the requested subscriber list information in the format the directory publisher chooses from among the available formats.

§ 64.2333 Burden of proof.

(a) In any future proceeding arising under section 222(e) of the Communications Act or § 64.2309, the burden of proof will be on the carrier to the extent it claims its internal subscriber list information systems cannot accommodate the delivery time, delivery schedule, unbundling level, or format requested by a directory publisher.

(b) In any future proceeding arising under section 222(e) of the Communications Act or §64.2309, the burden of proof will be on the carrier to the extent it seeks a rate exceeding $0.04 per listing for base file subscriber list information or $0.06 per listing for updated subscriber list information.

§ 64.2337 Directory publishing purposes.

(a) Except to the extent the carrier and directory publisher otherwise agree, a directory publisher shall use subscriber list information obtained pursuant to section 222(e) of the Communications Act or §64.2309 only for the purpose of publishing directories.

(b) A directory publisher uses subscriber list information ''for the purpose of publishing directories'' if the publisher includes that information in a directory, or uses that information to determine what information should be included in a directory, solicit advertisers for a directory, or deliver directories.

(c) A telecommunications carrier may require any person requesting subscriber list information pursuant to section 222(e) of the Communications Act or §64.2309 to certify that the publisher will use the information only for purposes of publishing a directory.

(d) A carrier must provide subscriber list information to a requesting directory publisher even if the carrier believes that the directory publisher will use that information for purposes other than or in addition to directory publishing.

§ 64.2341 Record keeping.

(a) A telecommunications carrier must retain, for at least one year after its expiration, each written contract that it has executed for the provision of subscriber list information for directory publishing purposes to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

(b) A telecommunications carrier must maintain, for at least one year after the carrier provides subscriber list information for directory publishing purposes to itself, an affiliate, or an entity that publishes directories on the carrier's behalf, records of any of its rates, terms, and conditions for providing that subscriber list information which are not set forth in a written contract.

(c) Except to the extent specified in paragraph (d), a carrier shall make the contracts and records described in paragraphs (a) and (b) available, upon request, to the Commission and to any directory publisher that requests those contracts and records for the purpose of publishing a directory.

(d) A carrier need not disclose to a directory publisher pursuant to paragraph (c) portions of requested contracts that are wholly unrelated to the rates, terms, or conditions under which the carrier provides subscriber list information to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

(e) A carrier may subject its disclosure of subscriber list information contracts or records to a directory publisher pursuant to paragraph (c) to a confidentiality agreement that limits access to and use of the information to the purpose of determining the rates, terms, and conditions under which the carrier provides subscriber list information to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

[28 FR 13239, Dec. 5, 1963, as amended at 69 FR 62816, Oct. 28, 2004]

§ 64.2345 Primary advertising classification.

A primary advertising classification is assigned at the time of the establishment of telephone exchange service if the carrier that provides telephone exchange service assigns the classification or if a tariff or State requirement obligates the carrier to provide yellow pages listings as part of telephone exchange service to businesses.

Subpart Y—Truth-in-Billing Requirements for Common Carriers; Billing for Unauthorized Charges

SOURCE: 64 FR 34497, June 25, 1999, unless otherwise noted.

§ 64.2400 Purpose and scope.

(a) The purpose of these rules is to reduce slamming and other telecommunications fraud by setting standards for bills for telecommunications service. These rules are also intended to aid customers in understanding their telecommunications bills, and to provide them with the tools they need to make informed choices in the market for telecommunications service.

(b) These rules shall apply to all telecommunications common carriers and to all bills containing charges for intrastate or interstate services, except as follows:

(1) Sections 64.2401(a)(2), 64.2401(a)(3), 64.2401(c), and 64.2401(f) shall not apply to providers of Commercial Mobile Radio Service as defined in § 20.9 of this chapter, or to other providers of mobile service as defined in § 20.7 of this chapter, unless the Commission determines otherwise in a further rulemaking.

(2) Sections 64.2401(a)(3) and 64.2401(f) shall not apply to bills containing charges only for intrastate services.

(c) *Preemptive effect of rules.* The requirements contained in this subpart are not intended to preempt the adoption or enforcement of consistent truth-in-billing requirements by the states.

[64 FR 34497, June 25, 1999; 64 FR 56177, Oct. 18, 1999; 65 FR 36637, June 9, 2000, as amended at 65 FR 43258, July 13, 2000; 69 FR 34950, June 23, 2004; 70 FR 29983, May 25, 2005; 77 FR 30919, May 24, 2012]

§ 64.2401 Truth-in-Billing Requirements.

(a) *Bill organization.* Telephone bills shall be clearly organized, and must comply with the following requirements:

(1) The name of the service provider associated with each charge must be clearly and conspicuously identified on the telephone bill.

(2) Where charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider.

(3) Carriers that place on their telephone bills charges from third parties for non-telecommunications services must place those charges in a distinct section of the bill separate from all carrier charges. Charges in each distinct section of the bill must be separately subtotaled. These separate subtotals for carrier and non-carrier charges also must be clearly and conspicuously displayed along with the bill total on the payment page of a paper bill or equivalent location on an electronic bill. For purposes of this subparagraph ''equivalent location on an electronic bill'' shall mean any location on an electronic bill where the bill total is displayed and any location where the bill total is displayed before the bill recipient accesses the complete electronic bill, such as in an electronic mail message notifying the bill recipient of the bill and an electronic link or notice on a Web site or electronic payment portal.

(4) The telephone bill must clearly and conspicuously identify any change in service provider, including identification of charges from any new service provider. For purpose of this subparagraph ''new service provider'' means a service provider that did not bill the subscriber for service during the service provider's last billing cycle. This definition shall include only providers that have continuing relationships with the subscriber that will result in periodic charges on the subscriber's bill, unless the service is subsequently canceled.

(b) *Descriptions of billed charges.* Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.

(c) *''Deniable'' and ''Non-Deniable'' Charges.* Where a bill contains charges for basic local service, in addition to other charges, the bill must distinguish between charges for which non-payment will result in disconnection of basic, local service, and charges for which non-payment will not result in such disconnection. The carrier must

explain this distinction to the customer, and must clearly and conspicuously identify on the bill those charges for which non-payment will not result in disconnection of basic, local service. Carriers may also elect to devise other methods of informing consumers on the bill that they may contest charges prior to payment.

(d) *Clear and conspicuous disclosure of inquiry contacts.* Telephone bills must contain clear and conspicuous disclosure of any information that the subscriber may need to make inquiries about, or contest, charges on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which subscribers may inquire or dispute any charges on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided such party possesses sufficient information to answer questions concerning the subscriber's account and is fully authorized to resolve the consumer's complaints on the carrier's behalf. Where the subscriber does not receive a paper copy of his or her telephone bill, but instead accesses that bill only by e-mail or internet, the carrier may comply with this requirement by providing on the bill an e-mail or web site address. Each carrier must make a business address available upon request from a consumer.

(e) *Definition of clear and conspicuous.* For purposes of this section, ''clear and conspicuous'' means notice that would be apparent to the reasonable consumer.

(f) *Blocking of third-party charges.* (1) Carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option at the point of sale and on each carrier's Web site.

(2) Carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option on each telephone bill.

(g) *Prohibition against unauthorized charges.* Carriers shall not place or cause to be placed on any telephone bill charges that have not been authorized by the subscriber.

[64 FR 34497, June 25, 1999, as amended at 65 FR 43258, July 13, 2000; 76 FR 63563, Oct. 13, 2011; 77 FR 30919, May 24, 2012; 77 FR 71354, Nov. 30, 2012; 83 FR 33143, July 17, 2018]

Subpart Z—Prohibition on Exclusive Telecommunications Contracts

SOURCE: 66 FR 2334, Jan. 11, 2001, unless otherwise noted.

§ 64.2500 Prohibited agreements and required disclosures.

(a) No common carrier shall enter into any contract, written or oral, that would in any way restrict the right of any commercial multiunit premises owner, or any agent or representative thereof, to permit any other common carrier to access and serve commercial tenants on that premises.

(b) No common carrier shall enter into or enforce any contract, written or oral, that would in any way restrict the right of any residential multiunit premises owner, or any agent or representative thereof, to permit any other common carrier to access and serve residential tenants on that premises.

(c) No common carrier shall enter into or enforce any contract regarding the provision of communications service in a multiunit premise, written or oral, in which it gives the multiunit premise owner compensation on a graduated basis.

(1) *Definition.* For purposes of this paragraph (c), a ''graduated basis'' means that the compensation a common carrier pays to a multiunit premise owner for each tenant served increases as the total number of tenants served by the common carrier in the multiunit premise increases.

(2) *Compliance dates*—(i) *Compliance date for new contracts.* After April 27, 2022, no common carrier shall enter into any contract regarding the provision of communications service in a multiunit premise, written or oral, in which it gives the multiunit premise owner compensation on a graduated basis.

(ii) *Compliance date for existing contracts.* After September 26, 2022, no

common carrier shall enforce any contract regarding the provision of communications service in a multiunit premise, written or oral, in existence as of April 27, 2022, in which it gives the multiunit premise owner compensation on a graduated basis.

(d) No common carrier shall enter into or enforce any contract regarding the provision of communications service in a multiunit premise, written or oral, in which it receives the exclusive right to provide the multiunit premise owner compensation in return for access to the multiunit premise and its tenants.

(1) *Compliance date for new contracts.* After April 27, 2022, no common carrier shall enter into any contract, written or oral, in which it receives the exclusive right to provide the multiunit premise owner compensation in return for access to the multiunit premise and its tenants.

(2) *Compliance date for existing contracts.* After September 26, 2022, no common carrier shall enforce any contract regarding the provision of communications service in a multiunit premise written or oral, in existence as of April 27, 2022, in which it receives the exclusive right to provide the multiunit premise owner compensation in return for access to the multiunit premise and its tenants.

(e) A common carrier shall disclose the existence of any contract regarding the provision of communications service in a multiunit premise, written or oral, in which it receives the exclusive right to market its service to tenants of a multiunit premise.

(1) Such disclosure must:

(i) Be included on all written marketing material, whether electronic or in print, that is directed at tenants or prospective tenants of the affected multiunit premise;

(ii) Identify the existence of the contract and include a plain-language description of the arrangement, including that the provider has the right to exclusively market its communications services to tenants in the multiunit premise, that such a right does not mean that the provider is the only entity that can provide such services to tenants in the multiunit premise, and that service from an alternative provider may be available; and

(iii) Be made in a manner that it is clear, conspicuous, and legible.

(2)(i) *Compliance date for new contracts.* After August 22, 2022, a common carrier shall disclose the existence of any contract entered into on or after April 27, 2022, regarding the provision of communications service in a multiunit premise, written or oral, in which it receives the exclusive right to market its service to tenants of a multiunit premise.

(ii) *Compliance date for existing contracts.* After September 26, 2022, a common carrier shall disclose the existence of any contract in existence as of April 27, 2022, regarding the provision of communications service in a multiunit premise, written or oral, in which it receives the exclusive right to market its service to tenants of a multiunit premise.

[73 FR 28057, May 15, 2008, as amended at 87 FR 17193, Mar. 28, 2022; 87 FR 51268, Aug. 22, 2022]

§ 64.2501 Scope of limitation.

For the purposes of this subpart, a multiunit premises is any contiguous area under common ownership or control that contains two or more distinct units. A commercial multiunit premises is any multiunit premises that is predominantly used for non-residential purposes, including for-profit, nonprofit, and governmental uses. A residential multiunit premises is any multiunit premises that is predominantly used for residential purposes.

[73 FR 28057, May 15, 2008]

§ 64.2502 Effect of state law or regulation.

This subpart shall not preempt any state law or state regulation that requires a governmental entity to enter into a contract or understanding with a common carrier which would restrict such governmental entity's right to obtain telecommunications service from another common carrier.

Subpart AA [Reserved]

Subpart BB—Restrictions on Unwanted Mobile Service Commercial Messages

AUTHORITY: 15 U.S.C. 7701–7713, Public Law 108–187, 117 Stat. 2699.

§ 64.3100 Restrictions on mobile service commercial messages.

(a) No person or entity may initiate any mobile service commercial message, as those terms are defined in paragraph (c)(7) of this section, unless:

(1) That person or entity has the express prior authorization of the addressee;

(2) That person or entity is forwarding that message to its own address;

(3) That person or entity is forwarding to an address provided that

(i) The original sender has not provided any payment, consideration or other inducement to that person or entity; and

(ii) That message does not advertise or promote a product, service, or Internet website of the person or entity forwarding the message; or

(4) The address to which that message is sent or directed does not include a reference to a domain name that has been posted on the FCC's wireless domain names list for a period of at least 30 days before that message was initiated, provided that the person or entity does not knowingly initiate a mobile service commercial message.

(b) Any person or entity initiating any mobile service commercial message must:

(1) Cease sending further messages within ten (10) days after receiving such a request by a subscriber;

(2) Include a functioning return electronic mail address or other Internet-based mechanism that is clearly and conspicuously displayed for the purpose of receiving requests to cease the initiating of mobile service commercial messages and/or commercial electronic mail messages, and that does not require the subscriber to view or hear further commercial content other than institutional identification;

(3) Provide to a recipient who electronically grants express prior authorization to send commercial electronic mail messages with a functioning option and clear and conspicuous instructions to reject further messages by the same electronic means that was used to obtain authorization;

(4) Ensure that the use of at least one option provided in paragraphs (b)(2) and (b)(3) of this section does not result in additional charges to the subscriber;

(5) Identify themselves in the message in a form that will allow a subscriber to reasonably determine that the sender is the authorized entity; and

(6) For no less than 30 days after the transmission of any mobile service commercial message, remain capable of receiving messages or communications made to the electronic mail address, other Internet-based mechanism or, if applicable, other electronic means provided by the sender as described in paragraph (b)(2) and (b)(3) of this section.

(c) *Definitions.* For the purpose of this subpart:

(1) *Commercial Mobile Radio Service Provider* means any provider that offers the services defined in 47 CFR Section 20.9.

(2) *Commercial electronic mail message* means the term as defined in the CAN–SPAM Act, 15 U.S.C 7702 and as further defined under 16 CFR 316.3. The term is defined as ''an electronic message for which the primary purpose is commercial advertisement or promotion of a commercial product or service (including content on an Internet Web site operated for a commercial purpose).'' The term ''commercial electronic mail message'' does not include a transactional or relationship message.

(3) *Domain name* means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(4) *Electronic mail address* means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which an electronic mail message can be sent or delivered.

(5) *Electronic mail message* means a message sent to a unique electronic mail address.

(6) *Initiate,* with respect to a commercial electronic mail message, means to originate or transmit such messages or to procure the origination or transmission of such message, but shall not include actions that constitute routine conveyance of such message. For purposes of this paragraph, more than one person may be considered to have initiated a message. ''Routine conveyance'' means the transmission, routing, relaying, handling, or storing, through an automatic technical process, or an electronic mail message for which another person has identified the recipients or provided the recipient addresses.

(7) *Mobile Service Commercial Message* means a commercial electronic mail message that is transmitted directly to a wireless device that is utilized by a subscriber of a commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)) in connection with such service. A commercial message is presumed to be a mobile service commercial message if it is sent or directed to any address containing a reference, whether or not displayed, to an Internet domain listed on the FCC's wireless domain names list. The FCC's wireless domain names list will be available on the FCC's website and at the Commission headquarters, located at the address indicated in 47 CFR 0.401(a).

(8) *Transactional or relationship message* means the following and is further defined under 16 CFR 316.3 as any electronic mail message the primary purpose of which is:

(i) To facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(ii) To provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(iii) To provide:

(A) Notification concerning a change in the terms or features of;

(B) Notification of a change in the recipient's standing or status with respect to; or

(C) At regular periodic intervals, account balance information or other type of account statement with respect to a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender;

(D) To provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled; or

(E) To deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

(d) *Express Prior Authorization* may be obtained by oral or written means, including electronic methods.

(1) Written authorization must contain the subscriber's signature, including an electronic signature as defined by 15 U.S.C. 7001 (E-Sign Act).

(2) All authorizations must include the electronic mail address to which mobile service commercial messages can be sent or directed. If the authorization is made through a website, the website must allow the subscriber to input the specific electronic mail address to which commercial messages may be sent.

(3) Express Prior Authorization must be obtained by the party initiating the mobile service commercial message. In the absence of a specific request by the subscriber to the contrary, express prior authorization shall apply only to the particular person or entity seeking the authorization and not to any affiliated entities unless the subscriber expressly agrees to their being included in the express prior authorization.

(4) Express Prior Authorization may be revoked by a request from the subscriber, as noted in paragraph (b)(2) and (b)(3) of this section.

(5) All requests for express prior authorization must include the following disclosures:

(i) That the subscriber is agreeing to receive mobile service commercial messages sent to his/her wireless device from a particular sender. The disclosure must state clearly the identity of the business, individual, or other entity that will be sending the messages;

(ii) That the subscriber may be charged by his/her wireless service provider in connection with receipt of such messages; and

(iii) That the subscriber may revoke his/her authorization to receive MSCMs at any time.

(6) All notices containing the required disclosures must be clearly legible, use sufficiently large type or, if audio, be of sufficiently loud volume, and be placed so as to be readily apparent to a wireless subscriber. Any such disclosures must be presented separately from any other authorizations in the document or oral presentation. If any portion of the notice is translated into another language, then all portions of the notice must be translated into the same language.

(e) All CMRS providers must identify all electronic mail domain names used to offer subscribers messaging specifically for wireless devices in connection with commercial mobile service in the manner and time-frame described in a public notice to be issued by the Consumer & Governmental Affairs Bureau.

(f) Each CMRS provider is responsible for the continuing accuracy and completeness of information furnished for the FCC's wireless domain names list. CMRS providers must:

(1) File any future updates to listings with the Commission not less than 30 days before issuing subscribers any new or modified domain name;

(2) Remove any domain name that has not been issued to subscribers or is no longer in use within 6 months of placing it on the list or last date of use; and

(3) Certify that any domain name placed on the FCC's wireless domain names list is used for mobile service messaging.

[69 FR 55779, Sept. 16, 2004, as amended at 70 FR 34666, June 15, 2005; 85 FR 64407, Oct. 13, 2020]

Subpart CC—Customer Account Record Exchange Requirements

AUTHORITY: 47 U.S.C. 154, 201, 202, 222, 258 unless otherwise noted.

SOURCE: 70 FR 32263, June 2, 2005, unless otherwise noted.

§ 64.4000 Basis and purpose.

(a) *Basis.* The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of these rules is to facilitate the timely and accurate establishment, termination, and billing of customer telephone service accounts.

§ 64.4001 Definitions.

Terms in this subpart have the following meanings:

(a) *Automatic number identification (ANI).* The term automatic number identification refers to the delivery of the calling party's billing telephone number by a local exchange carrier to any interconnecting carrier for billing or routing purposes.

(b) *Billing name and address (BNA).* The term billing name and address means the name and address provided to a [LEC] by each of its local exchange customers to which the [LEC] directs bills for its services.

(c) *Customer.* The term customer means the end user to whom a local exchange carrier or interexchange carrier is providing local exchange or telephone toll service.

(d) *Interexchange carrier (IXC).* The term interexchange carrier means a telephone company that provides telephone toll service. An interexchange carrier does not include commercial mobile radio service providers as defined by federal law.

(e) *Local exchange carrier (LEC).* The term local exchange carrier means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under §332(c), except to the extent that the Commission finds that such service should be included in the definition of that term.

(f) *Preferred interexchange carrier (PIC).* The term preferred interexchange carrier means the carrier to which a customer chooses to be presubscribed for purposes of receiving intraLATA and/or interLATA and/or international toll services.

§ 64.4002 Notification obligations of LECs.

To the extent that the information is reasonably available to a LEC, the LEC shall provide to an IXC the customer account information described in this section consistent with § 64.4004. Nothing in this section shall prevent a LEC from providing additional customer account information to an IXC to the extent that such additional information is necessary for billing purposes or to properly execute a customer's PIC order.

(a) *Customer-submitted PIC order*. Upon receiving and processing a PIC selection submitted by a customer and placing the customer on the network of the customer's preferred interexchange carrier at the LEC's local switch, the LEC must notify the IXC of this event. The notification provided by the LEC to the IXC must contain all of the customer account information necessary to allow for proper billing of the customer by the IXC including but not limited to:

(1) The customer's billing telephone number, working telephone number, and billing name and address;

(2) The effective date of the PIC change;

(3) A statement describing the customer type (i.e., business or residential);

(4) A statement indicating, to the extent appropriate, that the customer's telephone service listing is not printed in a directory and is not available from directory assistance or is not printed in a directory but is available from directory assistance;

(5) The jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international);

(6) The carrier identification code of the IXC; and

(7) If relevant, a statement indicating that the customer's account is subject to a PIC freeze. The notification also must contain information, if relevant and to the extent that it is available, reflecting the fact that a customer's PIC selection was the result of:

(i) A move (an end user customer has moved from one location to another within a LEC's service territory);

(ii) A change in responsible billing party; or

(iii) The resolution of a PIC dispute.

(b) *Confirmation of IXC-submitted PIC order*. When a LEC has placed a customer on an IXC's network at the local switch in response to an IXC-submitted PIC order, the LEC must send a confirmation to the submitting IXC. The confirmation provided by the LEC to the IXC must include:

(1) The customer's billing telephone number, working telephone number, and billing name and address;

(2) The effective date of the PIC change;

(3) A statement describing the customer type (i.e., business or residential);

(4) A statement indicating, to the extent appropriate, if the customer's telephone service listing is not printed in a directory and is not available from directory assistance, or is not printed in a directory but is available from directory assistance;

(5) The jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international); and

(6) The carrier identification code of the IXC. If the PIC order at issue originally was submitted by an underlying IXC on behalf of a toll reseller, the confirmation provided by the LEC to the IXC must indicate, to the extent that this information is known, a statement indicating that the customer's PIC is a toll reseller.

(c) *Rejection of IXC-submitted PIC order*. When a LEC rejects or otherwise does not act upon a PIC order submitted to it by an IXC, the LEC must notify the IXC and provide the reason(s) why the PIC order could not be processed. The notification provided by the LEC to the IXC must state that it has rejected the IXC-submitted PIC order and specify the reason(s) for the rejection (e.g., due to a lack of information, incorrect information, or a PIC freeze on the customer's account). The notification must contain the identical data elements that were provided to the LEC in the original IXC-submitted PIC order (i.e., mirror image of the original order), unless otherwise specified by this paragraph. If a LEC rejects an IXC-submitted PIC order for a multi-line account (i.e., the customer has selected the IXC as his PIC for two

or more lines or terminals associated with his billing telephone number), the notification provided by the LEC rejecting that order must explain the effect of the rejection with respect to each line (working telephone number or terminal) associated with the customer's billing telephone number. A LEC is not required to generate a line-specific or terminal-specific response, however, and may communicate the rejection at the billing telephone level, when the LEC is unable to process an entire order, including all working telephone numbers and terminals associated with a particular billing telephone number. In addition, the notification must indicate the jurisdictional scope of the PIC order rejection (i.e., intraLATA and/or interLATA and/or international). If a LEC rejects a PIC order because:

(1) The customer's telephone number has been ported to another LEC; or

(2) The customer has otherwise changed local service providers, the LEC must include in its notification, to the extent that it is available, the identity of the customer's new LEC.

(d) *Customer contacts LEC or new IXC to change PIC(s) or customer contacts LEC or current IXC to change PIC to No-PIC.* When a LEC has removed at its local switch a presubscribed customer from an IXC's network in response to a customer order, upon receipt of a properly verified PIC order submitted by another IXC, or in response to a notification from the customer's current IXC relating to the customer's request to change his or her PIC to No-PIC, the LEC must notify the customer's former IXC of this event. The LEC must provide to the IXC the customer account information that is necessary to allow for proper final billing of the customer by the IXC including but not limited to:

(1) The customer's billing telephone number, working telephone number, and billing name and address;

(2) The effective date of the PIC change;

(3) A description of the customer type (i.e., business or residential);

(4) The jurisdictional scope of the lines or terminals affected (i.e., intraLATA and/or interLATA and/or international); and

(5) The carrier identification code of the IXC. If a customer changes PICs but retains the same LEC, the LEC is responsible for notifying both the old PIC and new PIC of the PIC change. The notification also must contain information, if relevant and to the extent that it is available, reflecting the fact that a customer's PIC removal was the result of:

(i) The customer moving from one location to another within the LEC's service territory, but where there is no change in local service provider;

(ii) A change of responsible party on an account; or

(iii) A disputed PIC selection.

(e) *Particular changes to customer's local service account.* When, according to a LEC's records, certain account or line information changes occur on a presubscribed customer's account, the LEC must communicate this information to the customer's PIC. For purposes of this paragraph, the LEC must provide to the appropriate IXC account change information that is necessary for the IXC to issue timely and accurate bills to its customers including but not limited to:

(1) The customer's billing telephone number, working telephone number, and billing name and address;

(2) The customer code assigned to that customer by the LEC;

(3) The type of customer account (i.e., business or residential);

(4) The status of the customer's telephone service listing, to the extent appropriate, as not printed in a directory and not available from directory assistance, or not printed in a directory but available from directory assistance; and

(5) The jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international);

(6) The effective date of any change to a customer's local service account; and

(7) The carrier identification code of the IXC. If there are changes to the customer's billing or working telephone number, customer code, or customer type, the LEC must supply both the old and new information for each of these categories.

(f) *Local service disconnection.* Upon receipt of an end user customer's request to terminate his entire local service account or disconnect one or more lines (but not all lines) of a multi-line account, the LEC must notify the PIC(s) for the billing telephone number or working telephone number on the account of the account termination or lines disconnected. In conjunction with this notification requirement, the LEC must provide to a customer's PIC(s) all account termination or single/multi-line disconnection change information necessary for the PIC(s) to maintain accurate billing and PIC records, including but not limited to:

(1) The effective date of the termination/disconnection; and

(2) The customer's working and billing telephone numbers and billing name and address;

(3) The type of customer account (i.e., business or residential);

(4) The jurisdictional scope of the PIC installation (i.e., intraLATA and/or interLATA and/or international); and

(5) The carrier identification code of the IXC.

(g) *Change of local service provider.* When a customer changes LECs, the customer's former LEC must notify the customer's PIC(s) of the customer's change in LEC and, if known, the identity of the customer's new LEC. If the customer also makes a PIC change, the customer's former LEC must also notify the customer's former PIC(s) of the change. When a customer only changes LECs, the new LEC must notify the customer's current PIC(s) that the customer's PIC selection has not changed. If the customer also makes a PIC change, the new LEC must notify the customer's new PIC of the customer's PIC selection. If the customer's former LEC is unable to identify the customer's new LEC, the former LEC must notify the customer's PIC(s) of a local service disconnection as described in paragraph (f).

(1) The required notifications also must contain information, if relevant and to the extent that it is available, reflecting the fact that an account change was the result of:

(i) The customer porting his number to a new LEC;

(ii) A local resale arrangement (customer has transferred to local reseller); or

(iii) The discontinuation of a local resale arrangement;

(2) The notification provided by the LEC to the IXC must include:

(i) The customer's billing telephone number, working telephone number, and, billing name and address;

(ii) The effective date of the change of local service providers or PIC change;

(iii) A description of the customer type (i.e., business or residential);

(iv) The jurisdictional scope of the lines or terminals affected (i.e., intraLATA and/or interLATA and/or international); and

(v) The carrier identification code of the IXC.

(h) *IXC requests for customer BNA information.* Upon the request of an IXC, a LEC must provide the billing name and address information necessary to facilitate a customer's receipt of a timely, accurate bill for services rendered and/or to prevent fraud, regardless of the type of service the end user receives/has received from the requesting carrier (i.e., presubscribed, dial-around, casual). In response to an IXC's BNA request for ANI, a LEC must provide the BNA for the submitted ANI along with:

(1) The working telephone number for the ANI;

(2) The date of the BNA response;

(3) The carrier identification code of the submitting IXC; and

(4) A statement indicating, to the extent appropriate, if the customer's telephone service listing is not printed in a directory and is not available from directory assistance, or is not printed in a directory but is available from directory assistance. A LEC that is unable to provide the BNA requested must provide the submitting carrier with the identical information contained in the original BNA request (i.e., the mirror image of the original request), along with the specific reason(s) why the requested information could not be provided. If the BNA is not available because the customer has changed local service providers or

ported his telephone number, the LEC must include the identity of the new provider when this information is available.

[71 FR 74821, Dec. 13, 2006]

§ 64.4003 Notification obligations of IXCs.

To the extent that the information is reasonably available to an IXC, the IXC shall provide to a LEC the customer account information described in this section consistent with § 64.4004. Nothing in this section shall prevent an IXC from providing additional customer account information to a LEC to the extent that such additional information is necessary for billing purposes or to properly execute a customer's PIC Order.

(a) *IXC-submitted PIC Order*. When a customer contacts an IXC to establish interexchange service on a presubscribed basis, the IXC selected must submit the customer's properly verified PIC Order (*see* 47 CFR 64.1120(a)) to the customer's LEC, instructing the LEC to install or change the PIC for the customer's line(s) to that IXC. The notification provided by the IXC to the LEC must contain all of the information necessary to properly execute the Order including but not limited to:

(1) The customer's billing telephone number or working telephone number associated with the lines or terminals that are to be presubscribed to the IXC;

(2) The date of the IXC-submitted PIC Order;

(3) The jurisdictional scope of the PIC Order (*i.e,* intraLATA and/or interLATA and/or international); and

(4) The carrier identification code of the submitting IXC.

(b) *Customer contacts IXC to cancel PIC and to select no-PIC status.* When an end user customer contacts an IXC to discontinue interexchange service on a presubscribed basis, the IXC must confirm that it is the customer's desire to have no PIC and, if that is the case, the IXC must notify the customer's LEC. The IXC also is encouraged to instruct the customer to notify his LEC. An IXC may satisfy this requirement by establishing a three-way call with the customer and the customer's LEC to confirm that it is the customer's desire to have no PIC and, where appropriate, to provide the customer the opportunity to withdraw any PIC freeze that may be in place. The notification provided by the IXC to the LEC must contain the customer account information necessary to properly execute the cancellation Order including but not limited to:

(1) The customer's billing telephone number or working telephone number associated with the lines or terminals that are affected;

(2) The date of the IXC-submitted PIC removal Order;

(3) The jurisdictional scope of the PIC removal Order (*i.e.*, intraLATA and/or interLATA and/or international); and

(4) The carrier identification code of the submitting IXC.

[70 FR 32263, June 2, 2005; 70 FR 54301, Sept. 14, 2005]

§ 64.4004 Timeliness of required notifications.

Carriers subject to the requirements of this section shall provide the required notifications promptly and without unreasonable delay.

§ 64.4005 Unreasonable terms or conditions on the provision of customer account information.

To the extent that a carrier incurs costs associated with providing the notifications required by this section, the carrier may recover such costs, consistent with federal and state laws, through the filing of tariffs, via negotiated agreements, or by other appropriate mechanisms. Any cost recovery method must be reasonable and must recover only costs that are associated with providing the particular information. The imposition of unreasonable terms or conditions on the provision of information required by this section may be considered an unreasonable carrier practice under section 201(b) of the Communications Act of 1934, as amended, and may subject the carrier to appropriate enforcement action.

§ 64.4006 Limitations on use of customer account information.

A carrier that receives customer account information under this section shall use such information to ensure

timely and accurate billing of a customer's account and to ensure timely and accurate execution of a customer's preferred interexchange carrier instructions. Such information shall not be used for marketing purposes without the express consent of the customer.

Subpart DD—Prepaid Calling Card Providers

SOURCE: 71 FR 43673, Aug. 2, 2006, unless otherwise noted.

§ 64.5000 Definitions.

(a) *Prepaid calling card.* The term ''prepaid calling card'' means a card or similar device that allows users to pay in advance for a specified amount of calling, without regard to additional features, functions, or capabilities available in conjunction with the calling service.

(b) *Prepaid calling card provider.* The term ''prepaid calling card provider'' means any entity that provides telecommunications service to consumers through the use of a prepaid calling card.

§ 64.5001 Reporting and certification requirements.

On a quarterly basis, every prepaid calling card provider must submit to the Commission a certification with respect to the prior quarter, signed by an officer of the company under penalty of perjury, stating that it is making the required Universal Service Fund contribution. This provision shall not apply to any prepaid calling card provider that has timely filed required annual and quarterly Telecommunications Reporting Worksheets, FCC Forms 499–A and 499–Q, during the preceding two-year period.

[82 FR 48778, Oct. 20, 2017]

Subpart EE—TRS Customer Proprietary Network Information.

SOURCE: 78 FR 40613, July 5, 2013, unless otherwise noted.

§ 64.5101 Basis and purpose.

(a) *Basis.* The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended.

(b) *Purpose.* The purpose of the rules in this subpart is to implement customer proprietary network information protections for users of telecommunications relay services and point-to-point video service pursuant to sections 4, 222, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 222, 225.

[78 FR 40613, July 5, 2013, as amended at 82 FR 17764, Apr. 13, 2017]

§ 64.5103 Definitions.

(a) *Address of record.* An ''address of record,'' whether postal or electronic, is an address that the TRS provider has associated with the customer for at least 30 days.

(b) *Affiliate.* The term ''affiliate'' shall have the same meaning given such term in section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(c) *Call data information.* The term ''call data information'' means any information that pertains to the handling of specific TRS calls, including the call record identification sequence, the communications assistant identification number, the session start and end times, the conversation start and end times, incoming and outbound telephone numbers, incoming and outbound internet protocol (IP) addresses, total conversation minutes, total session minutes, and the electronic serial number of the consumer device.

(d) *Communications assistant (CA).* The term ''communications assistant'' or ''CA'' shall have the same meaning given to the term in § 64.601(a) of this part.

(e) *Customer.* The term ''customer'' means a person:

(1) To whom the TRS provider provides TRS or point-to-point service, or

(2) Who is registered with the TRS provider as a default provider.

(f) *Customer proprietary network information (CPNI).* The term ''customer proprietary network information'' or ''CPNI'' means information that relates to the quantity, technical configuration, type, destination, location,

and amount of use of a telecommunications service used by any customer of a TRS provider; and information regarding a customer's use of TRS contained in the documentation submitted by a TRS provider to the TRS Fund administrator in connection with a request for compensation for the provision of TRS.

(g) *Customer premises equipment (CPE).* The term ''customer premises equipment'' or ''CPE'' shall have the same meaning given to such term in section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(h) *Default provider.* The term ''default provider'' shall have the same meaning given such term in § 64.601(a) of this part.

(i) *Internet-based TRS (iTRS).* The term ''Internet-based TRS'' or ''iTRS shall have the same meaning given to the term in § 64.601(a) of this part.

(j) *iTRS access technology.* The term ''iTRS access technology'' shall have the same meaning given to the term in § 64.601(a) of this part.

(k) *Opt-in approval.* The term ''opt-in approval'' shall have the same meaning given such term in § 64.5107(b)(1) of this subpart.

(l) *Opt-out approval.* The term ''opt-out approval'' shall have the same meaning given such term in § 64.5107(b)(2) of this subpart.

(m) *Point-to-point service.* The term ''point-to-point service'' means a service that enables a VRS or hearing customer to place and receive non-relay calls without the assistance of a communications assistant over the facilities of a VRS provider using VRS access technology. Such calls are made by means of ten-digit NANP numbers registered in the TRS Numbering Directory and assigned to VRS customers and hearing point-to-point customers by VRS providers. The term ''point-to-point call'' shall refer to a call placed via a point-to-point service.

(n) *Readily available biographical information.* The term ''readily available biographical information'' means information drawn from the customer's life history and includes such things as the customer's social security number, or the last four digits of that number; mother's maiden name; home address; or date of birth.

(o) *Sign language.* The term ''sign language'' shall have the same meaning given to the term in § 64.601(a) of this part.

(p) *Telecommunications relay services (TRS).* The term ''telecommunications relay services'' or ''TRS'' shall have the same meaning given to such term in § 64.601(a) of this part.

(q) *Telephone number of record.* The term ''telephone number of record'' means the telephone number associated with the provision of TRS, which may or may not be the telephone number supplied as part of a customer's ''contact information.''

(r) *TRS Fund.* The term ''TRS Fund'' shall have the same meaning given to the term in § 64.604(c)(5)(iii) of this part.

(s) *TRS provider.* The term ''TRS provider'' means an entity that provides TRS and shall include an entity that provides point-to-point service.

(t) *TRS-related services.* The term ''TRS-related services'' means, in the case of traditional TRS, services related to the provision or maintenance of customer premises equipment, and in the case of iTRS, services related to the provision or maintenance of iTRS access technology, including features and functions typically provided by TRS providers in association with iTRS access technology.

(u) *Valid photo ID.* The term ''valid photo ID'' means a government-issued means of personal identification with a photograph such as a driver's license, passport, or comparable ID that has not expired.

(v) *Video relay service.* The term ''video relay service'' or VRS shall have the same meaning given to the term in § 64.601(a) of this part.

(w) *VRS access technology.* The term ''VRS access technology'' shall have the same meaning given to the term in § 64.601(a) of this part.

[78 FR 40613, July 5, 2013, as amended at 82 FR 17765, Apr. 13, 2017]

§ 64.5105 Use of customer proprietary network information without customer approval.

(a) A TRS provider may use, disclose, or permit access to CPNI for the purpose of providing or lawfully marketing service offerings among the categories of service (*i.e.*, type of TRS) for which the TRS provider is currently the default provider for that customer, without customer approval.

(1) If a TRS provider provides different categories of TRS, and the TRS provider is currently the default provider for that customer for more than one category of TRS offered by the TRS provider, the TRS provider may share CPNI among the TRS provider's affiliated entities that provide a TRS offering to the customer.

(2) If a TRS provider provides different categories of TRS, but the TRS provider is currently not the default provider for that customer for more than one offering by the TRS provider, the TRS provider shall not share CPNI with its affiliates, except as provided in § 64.5107(b) of this subpart.

(b) A TRS provider shall not use, disclose, or permit access to CPNI as described in this paragraph (b).

(1) A TRS provider shall not use, disclose, or permit access to CPNI to market to a customer TRS offerings that are within a category of TRS for which the TRS provider is not currently the default provider for that customer, unless that TRS provider has customer approval to do so.

(2) A TRS provider shall not identify or track CPNI of customers that call competing TRS providers and, notwithstanding any other provision of this subpart, a TRS provider shall not use, disclose or permit access to CPNI related to a customer call to a competing TRS provider.

(c) A TRS provider may use, disclose, or permit access to CPNI, without customer approval, as described in this paragraph (c).

(1) A TRS provider may use, disclose or permit access to CPNI derived from its provision of TRS without customer approval, for the provision of CPE or iTRS access technology, and call answering, voice or video mail or messaging, voice or video storage and retrieval services.

(2) A TRS provider may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(3) A TRS provider may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, call waiting, caller I.D., and call forwarding, only to those customers that are currently registered with that TRS provider as their default provider.

(4) A TRS provider shall use, disclose, or permit access to CPNI to the extent necessary to:

(i) Accept and handle 911/E911 calls;

(ii) Access, either directly or via a third party, a commercially available database that will allow the TRS provider to determine an appropriate Public Safety Answering Point, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location;

(iii) Relay the 911/E911 call to that entity; and

(iv) Facilitate the dispatch and response of emergency service or law enforcement personnel to the caller's location, in the event that the 911/E911 call is disconnected or the caller becomes incapacitated.

(5) A TRS provider shall use, disclose, or permit access to CPNI upon request by the administrator of the TRS Fund, as that term is defined in § 64.604(c)(5)(iii) of this part, or by the Commission for the purpose of administration and oversight of the TRS Fund, including the investigation and prevention of fraud, abuse, and misuse of TRS and seeking repayment to the TRS Fund for non-compensable minutes.

(6) A TRS provider may use, disclose, or permit access to CPNI to protect the rights or property of the TRS provider, or to protect users of those services, other TRS providers, and the TRS Fund from fraudulent, abusive, or unlawful use of such services.

[79 FR 40613, July 5, 2013]

§ 64.5107 Approval required for use of customer proprietary network information.

(a) A TRS provider may obtain approval through written, oral, electronic, or sign language methods.

(1) A TRS provider relying on oral or sign language approval shall bear the burden of demonstrating that such approval has been given in compliance with the Commission's rules in this part.

(2) Approval or disapproval to use, disclose, or permit access to a customer's CPNI obtained by a TRS provider must remain in effect until the customer revokes or limits such approval or disapproval. A TRS provider shall accept any such customer revocation, whether in written, oral, electronic, or sign language methods.

(3) A TRS provider must maintain records of approval, whether oral, written, electronic, or sign language, during the time period that the approval or disapproval is in effect and for at least one year thereafter.

(b) *Use of opt-in and opt-out approval processes.* (1) Opt-in approval requires that the TRS provider obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the TRS provider's request consistent with the requirements set forth in this subpart.

(2) With opt-out approval, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in § 64.5108(d)(1) of this subpart after the TRS provider has provided to the customer appropriate notification of the TRS provider's request for consent consistent with the rules in this subpart.

(3) A TRS provider may only use, disclose, or permit access to the customer's individually identifiable CPNI with the customer's opt-in approval, except as follows:

(i) Where a TRS provider is permitted to use, disclose, or permit access to CPNI without customer approval under § 64.5105 of this subpart.

(ii) Where a TRS provider is permitted to use, disclose, or permit access to CPNI by making use of customer opt-in or opt-out approval under paragraph (?)(4) of this section.

(4) A TRS provider may make use of customer opt-in or opt-out approval to take the following actions with respect to CPNI:

(i) Use its customer's individually identifiable CPNI for the purpose of lawfully marketing TRS-related services to that customer.

(ii) Disclose its customer's individually identifiable CPNI to its agents and its affiliates that provide TRS-related services for the purpose of lawfully marketing TRS-related services to that customer. A TRS provider may also permit such persons or entities to obtain access to such CPNI for such purposes.

[79 FR 40613, July 5, 2013]

§ 64.5108 Notice required for use of customer proprietary network information.

(a) *Notification, generally.* (1) Prior to any solicitation for customer approval to use, disclose, or permit access to CPNI, a TRS provider shall provide notification to the customer of the customer's right to deny or restrict use of, disclosure of, and access to that customer's CPNI.

(2) A TRS provider shall maintain records of notification, whether oral, written, electronic, or sign language, during the time period that the approval is in effect and for at least one year thereafter.

(b) *Individual notice.* A TRS provider shall provide individual notice to customers when soliciting approval to use, disclose, or permit access to customers' CPNI.

(c) *Content of notice.* Customer notification shall provide sufficient information in clear and unambiguous language to enable the customer to make an informed decision as to whether to permit a TRS provider to use, disclose, or permit access to, the customer's CPNI.

(1) The notification shall state that the customer has a right to deny any TRS provider the right to use, disclose or permit access to the customer's CPNI, and the TRS provider has a duty,

under federal law, to honor the customer's right and to protect the confidentiality of CPNI.

(2) The notification shall specify the types of information that constitute CPNI and the specific entities that will use, receive or have access to the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw the customer's consent to use, disclose, or permit access to access to CPNI at any time.

(3) The notification shall advise the customer of the precise steps the customer must take in order to grant or deny use, disclosure, or access to CPNI, and must clearly state that customer denial of approval will not affect the TRS provider's provision of any services to the customer. However, TRS providers may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

(4) TRS providers shall provide the notification in a manner that is accessible to the customer, comprehensible, and not misleading.

(5) If the TRS provider provides written notification to the customer, the notice shall be clearly legible, use sufficiently large type, and be placed in an area so as to be readily apparent to a customer.

(6) If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

(7) A TRS provider may state in the notification that the customer's approval to use CPNI may enhance the TRS provider's ability to offer products and services tailored to the customer's needs. A TRS provider also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

(8) The notification shall state that any approval or denial of approval for the use of CPNI outside of the service for which the TRS provider is the default provider for the customer is valid until the customer affirmatively revokes or limits such approval or denial.

(9) A TRS provider's solicitation for approval to use, disclose, or have access to the customer's CPNI must be proximate to the notification of a customer's CPNI rights to non-disclosure.

(d) *Notice requirements specific to opt-out.* A TRS provider shall provide notification to obtain opt-out approval through electronic or written methods, but not by oral or sign language communication (except as provided in paragraph (f) of this section). The contents of any such notification shall comply with the requirements of paragraph (c) of this section.

(1) TRS providers shall wait a 30-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. A TRS provider may, in its discretion, provide for a longer period. TRS providers shall notify customers as to the applicable waiting period for a response before approval is assumed.

(i) In the case of an electronic form of notification, the waiting period shall begin to run from the date on which the notification was sent; and

(ii) In the case of notification by mail, the waiting period shall begin to run on the third day following the date that the notification was mailed.

(2) TRS providers using the opt-out mechanism shall provide notices to their customers every two years.

(3) TRS providers that use email to provide opt-out notices shall comply with the following requirements in addition to the requirements generally applicable to notification:

(i) TRS providers shall obtain express, verifiable, prior approval from consumers to send notices via email regarding their service in general, or CPNI in particular;

(ii) TRS providers shall either:

(A) Allow customers to reply directly to the email containing the CPNI notice in order to opt-out; or

(B) Include within the email containing the CPNI notice a conspicuous link to a Web page that provides to the customer a readily usable opt-out mechanism;

(iii) Opt-out email notices that are returned to the TRS provider as undeliverable shall be sent to the customer in another form before the TRS provider may consider the customer to have received notice;

(iv) TRS providers that use email to send CPNI notices shall ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and

(v) TRS providers shall make available to every customer a method to opt-out that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. TRS providers may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.

(e) *Notice requirements specific to opt-in.* A TRS provider may provide notification to obtain opt-in approval through oral, sign language, written, or electronic methods. The contents of any such notification shall comply with the requirements of paragraph (c) of this section.

(f) *Notice requirements specific to one-time use of CPNI.* (1) TRS providers may use oral, text, or sign language notice to obtain limited, one-time use of CPNI for inbound and outbound customer telephone, TRS, or point-to-point contacts for the duration of the call, regardless of whether TRS providers use opt-out or opt-in approval based on the nature of the contact.

(2) The contents of any such notification shall comply with the requirements of paragraph (c) of this section, except that TRS providers may omit any of the following notice provisions if not relevant to the limited use for which the TRS provider seeks CPNI:

(i) TRS providers need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election;

(ii) TRS providers need not advise customers that the TRS provider may share CPNI with the TRS provider's affiliates or third parties and need not name those entities, if the limited CPNI usage will not result in use by, or disclosure to, an affiliate or third party;

(iii) TRS providers need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as the TRS provider explains to customers that the scope of the approval the TRS provider seeks is limited to one-time use; and

(iv) TRS providers may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, as long as the TRS provider clearly communicates that the customer can deny access to his or her CPNI for the call.

[79 FR 40613, July 5, 2013]

§ 64.5109 Safeguards required for use of customer proprietary network information.

(a) TRS providers shall implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI. Except as provided for in §§ 64.5105 and 64.5108(f) of this subpart, TRS providers shall provide access to and shall require all personnel, including any agents, contractors, and subcontractors, who have contact with customers to verify the status of a customer's CPNI approval before using, disclosing, or permitting access to the customer's CPNI.

(b) TRS providers shall train their personnel, including any agents, contractors, and subcontractors, as to when they are and are not authorized to use CPNI, including procedures for verification of the status of a customer's CPNI approval. TRS providers shall have an express disciplinary process in place, including in the case of agents, contractors, and subcontractors, a right to cancel the applicable contract(s) or otherwise take disciplinary action.

(c) TRS providers shall maintain a record, electronically or in some other manner, of their own and their affiliates' sales and marketing campaigns that use their customers' CPNI. All TRS providers shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record shall include a description of each campaign, the specific CPNI that was used in the campaign, including the customer's name, and

what products and services were offered as a part of the campaign. TRS providers shall retain the record for a minimum of three years.

(d) TRS providers shall establish a supervisory review process regarding TRS provider compliance with the rules in this subpart for outbound marketing situations and maintain records of TRS provider compliance for a minimum period of three years. Sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.

(e) A TRS provider shall have an officer, as an agent of the TRS provider, sign and file with the Commission a compliance certification on an annual basis. The officer shall state in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The TRS provider must provide a statement accompanying the certification explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart. In addition, the TRS provider must include an explanation of any actions taken against data brokers, a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI, and a report detailing all instances where the TRS provider, or its agents, contractors, or subcontractors, used, disclosed, or permitted access to CPNI without complying with the procedures specified in this subpart. In the case of iTRS providers, this filing shall be included in the annual report filed with the Commission pursuant to §64.606(g) of this part for data pertaining to the previous year. In the case of all other TRS providers, this filing shall be made annually with the Disability Rights Office of the Consumer and Governmental Affairs Bureau on or before March 1 in CG Docket No. 03–123 for data pertaining to the previous calendar year.

(f) TRS providers shall provide written notice within five business days to the Disability Rights Office of the Consumer and Governmental Affairs Bureau of the Commission of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly.

(1) The notice shall be in the form of a letter, and shall include the TRS provider's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether the relevant state commission(s) has been notified, if applicable, and whether the state commission(s) has taken any action, a copy of the notice provided to customers, and contact information.

(2) Such notice shall be submitted even if the TRS provider offers other methods by which consumers may opt-out.

[79 FR 40613, July 5, 2013]

§ 64.5110 Safeguards on the disclosure of customer proprietary network information.

(a) *Safeguarding CPNI.* TRS providers shall take all reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI. TRS providers shall authenticate a customer prior to disclosing CPNI based on a customer-initiated telephone contact, TRS call, point-to-point call, online account access, or an in-store visit.

(b) *Telephone, TRS, and point-to-point access to CPNI.* A TRS provider shall authenticate a customer without the use of readily available biographical information, or account information, prior to allowing the customer telephonic, TRS, or point-to-point access to CPNI related to his or her TRS account. Alternatively, the customer may obtain telephonic, TRS, or point-to-point access to CPNI related to his or her TRS account through a password, as described in paragraph (e) of this section.

(c) *Online access to CPNI.* A TRS provider shall authenticate a customer without the use of readily available biographical information, or account information, prior to allowing the customer online access to CPNI related to his or her TRS account. Once authenticated, the customer may only obtain online access to CPNI related to his or her TRS account through a password, as described in paragraph (e) of this section.

(d) *In-store access to CPNI.* A TRS provider may disclose CPNI to a customer who, at a TRS provider's retail location, first presents to the TRS provider or its agent a valid photo ID matching the customer's account information.

(e) *Establishment of a password and back-up authentication methods for lost or forgotten passwords.* To establish a password, a TRS provider shall authenticate the customer without the use of readily available biographical information, or account information. TRS providers may create a back-up customer authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information, or account information. If a customer cannot provide the correct password or the correct response for the back-up customer authentication method, the customer shall establish a new password as described in this paragraph.

(f) *Notification of account changes.* TRS providers shall notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation. This notification may be through a TRS provider-originated voicemail, text message, or video mail to the telephone number of record, by mail to the physical address of record, or by email to the email address of record, and shall not reveal the changed information or be sent to the new account information.

[79 FR 40613, July 5, 2013]

§ 64.5111 Notification of customer proprietary network information security breaches.

(a) A TRS provider shall notify law enforcement of a breach of its customers' CPNI as provided in this section. The TRS provider shall not notify its customers or disclose the breach publicly, whether voluntarily or under state or local law or these rules, until it has completed the process of notifying law enforcement pursuant to paragraph (b) of this section. The TRS provider shall file a copy of the notification with the Disability Rights Office of the Consumer and Governmental Affairs Bureau at the same time as when the TRS provider notifies the customers.

(b) As soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the TRS provider shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility. The Commission will maintain a link to the reporting facility at *http://www.fcc.gov/eb/cpni*.

(1) Notwithstanding any state law to the contrary, the TRS provider shall not notify customers or disclose the breach to the public until 7 full business days have passed after notification to the USSS and the FBI except as provided in paragraphs (b)(2) and (3) of this section.

(2) If the TRS provider believes that there is an extraordinarily urgent need to notify any class of affected customers sooner than otherwise allowed under paragraph (b)(1) of this section, in order to avoid immediate and irreparable harm, it shall so indicate in its notification and may proceed to immediately notify its affected customers only after consultation with the relevant investigating agency. The TRS provider shall cooperate with the relevant investigating agency's request to minimize any adverse effects of such customer notification.

(3) If the relevant investigating agency determines that public disclosure or notice to customers would impede or compromise an ongoing or potential criminal investigation or national security, such agency may direct the TRS provider not to so disclose or notify for an initial period of up to 30 days. Such period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the TRS provider when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency

shall provide in writing its initial direction to the TRS provider, any subsequent extension, and any notification that notice will no longer impede or compromise a criminal investigation or national security and such writings shall be contemporaneously logged on the same reporting facility that contains records of notifications filed by TRS providers.

(c) *Customer notification*. After a TRS provider has completed the process of notifying law enforcement pursuant to paragraph (b) of this section, and consistent with the waiting requirements specified in paragraph (b) of this section, the TRS provider shall notify its customers of a breach of those customers' CPNI.

(d) *Recordkeeping*. All TRS providers shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the USSS and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. TRS providers shall retain the record for a minimum of 2 years.

(e) *Definition*. As used in this section, a ''breach'' has occurred when a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI.

(f) This section does not supersede any statute, regulation, order, or interpretation in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this section, and then only to the extent of the inconsistency.

[78 FR 40613, July 5, 2013]

Subpart FF—Inmate Calling Services

SOURCE: 78 FR 67975, Nov. 13, 2013, unless otherwise noted.

§ 64.6000 Definitions.

As used in this subpart:

(a) *Ancillary Service Charge* means any charge Consumers may be assessed for, or in connection with, the interstate or international use of Inmate Calling Services that are not included in the per-minute charges assessed for such individual calls. Ancillary Service Charges that may be assessed are limited only to those listed in paragraphs (a)(1) through (5) of this section. All other Ancillary Service Charges are prohibited. For purposes of this definition, ''interstate'' includes any Jurisdictionally Mixed Charge, as defined in paragraph (u) of this section.

(1) *Automated Payment Fees* means credit card payment, debit card payment, and bill processing fees, including fees for payments made by interactive voice response (IVR), web, or kiosk;

(2) *Fees for Single-Call and Related Services* means billing arrangements whereby an Inmate's collect calls are billed through a third party on a per-call basis, where the called party does not have an account with the Provider of Inmate Calling Services or does not want to establish an account;

(3) *Live Agent Fee* means a fee associated with the optional use of a live operator to complete Inmate Calling Services transactions;

(4) *Paper Bill/Statement Fees* means fees associated with providing customers of Inmate Calling Services an optional paper billing statement;

(5) *Third-Party Financial Transaction Fees* means the exact fees, with no markup, that Providers of Inmate Calling Services are charged by third parties to transfer money or process financial transactions to facilitate a Consumer's ability to make account payments via a third party.

(b) *Authorized Fee* means a government authorized, but discretionary, fee which a Provider must remit to a federal, state, or local government, and which a Provider is permitted, but not required, to pass through to Consumers for or in connection with interstate or international Inmate Calling Service. An Authorized Fee may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation.

(c) *Average Daily Population (ADP)* means the sum of all Inmates in a facility for each day of the preceding calendar year, divided by the number of days in the year.

(d) *Collect Calling* means an arrangement whereby the called party takes affirmative action clearly indicating that it will pay the charges associated with a call originating from an Inmate Telephone;

(e) *Consumer* means the party paying a Provider of Inmate Calling Services;

(f) *Correctional Facility or Correctional Institution* means a Jail or a Prison;

(g) *Debit Calling* means a presubscription or comparable service which allows an Inmate, or someone acting on an Inmate's behalf, to fund an account set up through a Provider that can be used to pay for Inmate Calling Services calls originated by the Inmate;

(h) *Flat Rate Calling* means a calling plan under which a Provider charges a single fee for an Inmate Calling Services call, regardless of the duration of the call;

(i) *Inmate* means a person detained at a Jail or Prison, regardless of the duration of the detention;

(j) *Inmate Calling Service* means a service that allows Inmates to make calls to individuals outside the Correctional Facility where the Inmate is being held, regardless of the technology used to deliver the service;

(k) *Inmate Telephone* means a telephone instrument, or other device capable of initiating calls, set aside by authorities of a Correctional Facility for use by Inmates;

(l) *International Calls* means calls that originate in the United States and terminate outside the United States;

(m) *Jail* means a facility of a local, state, or federal law enforcement agency that is used primarily to hold individuals who are;

(1) Awaiting adjudication of criminal charges;

(2) Post-conviction and committed to confinement for sentences of one year or less; or

(3) Post-conviction and awaiting transfer to another facility. The term also includes city, county, or regional facilities that have contracted with a private company to manage day-to-day operations; privately owned and operated facilities primarily engaged in housing city, county or regional Inmates; facilities used to detain individuals, operated directly by the Federal Bureau of Prisons or U.S. Immigration and Customs Enforcement, or pursuant to a contract with those agencies; juvenile detention centers; and secure mental health facilities.

(n) *Mandatory Tax or Mandatory Fee* means a fee that a Provider is required to collect directly from consumers, and remit to federal, state, or local governments. A Mandatory Tax or Fee that is passed through to a consumer for, or in connection with, interstate or international Inmate Calling Services may not include a markup, unless the markup is specifically authorized by a federal, state, or local statute, rule, or regulation;

(o) *Per-Call, or Per-Connection Charge* means a one-time fee charged to a Consumer at call initiation;

(p) *Prepaid Calling* means a presubscription or comparable service in which a Consumer, other than an Inmate, funds an account set up through a Provider of Inmate Calling Services. Funds from the account can then be used to pay for Inmate Calling Services, including calls that originate with an Inmate;

(q) *Prepaid Collect Calling* means a calling arrangement that allows an Inmate to initiate an Inmate Calling Services call without having a pre-established billing arrangement and also provides a means, within that call, for the called party to establish an arrangement to be billed directly by the Provider of Inmate Calling Services for future calls from the same Inmate;

(r) *Prison* means a facility operated by a territorial, state, or Federal agency that is used primarily to confine individuals convicted of felonies and sentenced to terms in excess of one year. The term also includes public and private facilities that provide outsource housing to other agencies such as the State Departments of Correction and the Federal Bureau of Prisons; and facilities that would otherwise fall under the definition of a Jail but in which the majority of inmates are post-conviction and are committed to confinement for sentences of longer than one year.

(s) *Provider of Inmate Calling Services, or Provider* means any communications service provider that provides Inmate Calling Services, regardless of the technology used;

(t) *Site Commission* means any form of monetary payment, in-kind payment, gift, exchange of services or goods, fee, technology allowance, or product that a Provider of Inmate Calling Services or affiliate of a Provider of Inmate Calling Services may pay, give, donate, or otherwise provide to an entity that operates a correctional institution, an entity with which the Provider of Inmate Calling Services enters into an agreement to provide Inmate Calling Services, a governmental agency that oversees a correctional facility, the city, county, or state where a facility is located, or an agent of any such facility.

(u) *Jurisdictionally Mixed Charge* means any charge Consumers may be assessed for use of Inmate Calling Services that are not included in the per-minute charges assessed for individual calls and that are assessed for, or in connection with, uses of Inmate Calling Service to make such calls that have interstate or international components and intrastate components that are unable to be segregated at the time the charge is incurred.

(v) *Provider-Related Rate Component* means the interim per-minute rate specified in either § 64.6030(b) or (c) that Providers at Jails with Average Daily Populations of 1,000 or more Inmates and all Prisons may charge for interstate Collect Calling, Debit Calling, Prepaid Calling, or Prepaid Collect Calling.

(w) *Facility-Related Rate Component* means either the Legally Mandated Facility Rate Component or the Contractually Prescribed Facility Rate Component identified in § 64.6030(d).

(x) *International Destination* means the rate zone in which an international call terminates. For countries that have a single rate zone, *International Destination* means the country in which an international call terminates.

(y) *Controlling Judicial* or *Administrative Mandate* means:

(1) A final court order requiring an incarcerated person to pay restitution;

(2) A fine imposed as part of a criminal sentence;

(3) A fee imposed in connection with a criminal conviction; or

(4) A final court or administrative agency order adjudicating a valid contract between the provider and the account holder, entered into prior to September 30, 2022, that allows or requires that an Inmate Calling Services Provider act in a manner that would otherwise violate § 64.6130.

(z) *Jurisdiction* means:

(1) The state, city, county, or territory where a law enforcement authority is operating or contracting for the operation of a Correctional Facility; or

(2) The United States for a Correctional Facility operated by or under the contracting authority of a Federal law enforcement agency.

[80 FR 79178, Dec. 18, 2015, as amended at 81 FR 62825, Sept. 13, 2016; 85 FR 67461, Oct. 23, 2020; 86 FR 40731, July 28, 2021; 87 FR 75514, Dec. 9, 2022]

§ 64.6010 [Reserved]

§ 64.6020 Ancillary Service Charges.

(a) No Provider of interstate or international Inmate Calling Services shall charge an Ancillary Service Charge other than those permitted charges listed in § 64.6000(a).

(b) No Provider shall charge a rate for a permitted Ancillary Service Charge in excess of:

(1) For Automated Payment Fees—$3.00 per use;

(2) For Single-Call and Related Services—when the transaction is paid for through an automated payment system, $3.00 per transaction, plus the effective, per-minute rate; or when the transaction is paid via a live agent, $5.95 per transaction, plus the effective, per-minute rate;

(3) For Live Agent Fee—$5.95 per use;

(4) For Paper Bill/Statement Fee—$2.00 per use;

(5) For Third-Party Financial Transaction Fees—when the transaction is paid through an automated payment system, $3.00 per transaction; or when the transaction is paid via a live agent, $5.95 per transaction.

[80 FR 79179, Dec. 18, 2015, as amended at 85 FR 67462, Oct. 23, 2020; 86 FR 40731, July 28, 2021; 87 FR 75515, Dec. 9, 2022]

§ 64.6030 Inmate Calling Services interim rate caps.

(a) For all Jails with Average Daily Populations of less than 1,000 Inmates, no Provider shall charge a rate for interstate Collect Calling, Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of $0.21 per minute.

(b) For all Jails with Average Daily Populations of Inmates of 1,000 or greater, no Provider shall charge a Provider-Related Rate Component for interstate Collect Calling, Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of $0.14 per minute.

(c) For all Prisons, no Provider shall charge a Provider-Related Rate Component for interstate Collect Calling, Debit Calling, Prepaid Calling, or Prepaid Collect Calling in excess of $0.12 per minute.

(d) For all Jails with Average Daily Populations of Inmates of 1,000 or greater, and for all Prisons, Providers may recover the applicable Facility-Related Rate Component as follows:

(1) Providers subject to an obligation to pay Site Commissions by state statutes or laws and regulations that are adopted pursuant to state administrative procedure statutes where there is notice and an opportunity for public comment such as by a state public utility commission or similar regulatory body with jurisdiction to establish inmate calling services rates, terms, and conditions and that operate independently of the contracting process between Correctional Institutions and Providers, may recover the full amount of such payments through the Legally Mandated Facility Rate Component subject to the limitation that the total rate (Provider-Related Rate Component plus Facility-Related Rate Component) does not exceed $0.21 per minute.

(2) Providers that pay Site Commissions pursuant to a contract with the Jail or Prison may recover up to $0.02 per minute through the Contractually Prescribed Facility Rate Component except where the Provider's total Contractually Prescribed Facility Rate Component results in a lower per-minute rate than $0.02 per minute of use. In that case, the Provider's Contractually Prescribed Facility Rate Component is limited to the actual amount of its per-minute Site Commission payment up to a maximum of $0.02 per minute. Providers shall calculate their Contractually Prescribed Facility Rate Component to three decimal places.

(e) No Provider shall charge, in any Prison or Jail it serves, a per-minute rate for an International Call in excess of the applicable interstate rate cap set forth in paragraphs (a), (b), (c), and (d) of this section plus the average amount that the provider paid its underlying international service providers for calls to the International Destination of that call, on a per-minute basis. A Provider shall determine the average amount paid for calls to each International Destination for each calendar quarter and shall adjust its maximum rates based on such determination within one month of the end of each calendar quarter.

[86 FR 40731, July 28, 2021]

§ 64.6040 Communications access for incarcerated people with communication disabilities.

(a) A Provider shall provide incarcerated people access to TRS and related communication services as described in this section, except where the correctional authority overseeing a facility prohibits such access.

(b)(1) A Provider shall provide access for incarcerated people with communication disabilities to Traditional (TTY-Based) TRS and STS.

(2) Beginning January 1, 2024, a Provider serving a correctional facility in any jurisdiction with an Average Daily Population of 50 or more incarcerated persons shall:

(i) Where broadband internet access service is available, provide access to any form of TRS (in addition to Traditional TRS and STS) that is eligible for TRS Fund support (except that a Provider need not provide access to *non-internet Protocol* Captioned Telephone Service in any facility where it provides access to IP CTS); and

(ii) Where broadband internet access service is available, provide access to a point-to-point video service, as defined in § 64.601(a)(33), that allows communication in American Sign Language (ASL) with other ASL users; and

(iii) Where broadband internet access service is not available, provide access to *non-internet Protocol* Captioned Telephone Service, in addition to Traditional TRS and STS.

(c) [Reserved]

(d)(1) Except as provided in this paragraph (d), no Provider shall levy or collect any charge or fee on or from any party to a TRS call to or from an incarcerated person, or any charge for the use of a device or transmission service when used to access TRS from a Correctional Facility.

(2) When providing access to IP CTS or CTS, a Provider may assess a charge for such IP CTS or CTS call that does not exceed the charge levied or collected by the Provider for a voice telephone call of the same duration, distance, Jurisdiction, and time-of-day placed to or from an individual incarcerated at the same Correctional Facility.

(3) When providing access to a point-to-point video service, as defined in § 64.601(a)(33), for incarcerated individuals with communication disabilities who can use ASL, the total charges or fees that a Provider levies on or collects from any party to such point-to-point video call, including any charge for the use of a device or transmission service, shall not exceed the charge levied or collected by the Provider for a voice telephone call of the same duration, distance, Jurisdiction, and time-of-day placed to or from an individual incarcerated at the same Correctional Facility.

(4) No Provider shall levy or collect any charge in excess of 25 percent of the applicable per-minute rate for TTY-to-TTY calls when such calls are associated with Inmate Calling Services.

[87 FR 75515, Dec. 9, 2022]

EFFECTIVE DATE NOTE: At 87 FR 75515, Dec. 9, 2022, § 64.6040 was amended by adding paragraph (c), which has been delayed indefinitely. For the convenience of the user, the added text is set forth as follows:

§ 64.6040 Communications access for incarcerated people with communication disabilities.

* * * * *

(c) As part of its obligation to provide access to TRS, a Provider shall:

(1) Make all necessary contractual and technical arrangements to ensure that, consistent with the security needs of a Correctional Facility, incarcerated individuals eligible to use TRS can access at least one certified Provider of each form of TRS required by this section;

(2) Work with correctional authorities, equipment vendors, and TRS providers to ensure that screen-equipped communications devices such as tablets, smartphones, or videophones are available to incarcerated people who need to use TRS for effective communication, and all necessary TRS provider software applications are included, with any adjustments needed to meet the security needs of the institution, provide compatibility with institutional communication systems, and allow operability over the Inmate Calling Services Provider's network;

(3) Provide any assistance needed by TRS providers in collecting the registration information and documentation required by § 64.611 from incarcerated users and correctional authorities; and

(4) When an incarcerated person who has individually registered to use VRS, IP Relay, or IP CTS is released from incarceration or transferred to another correctional authority, notify the TRS provider(s) with which the incarcerated person has registered.

§ 64.6050 Billing-related call blocking.

No Provider shall prohibit or prevent completion of an interstate or international Collect Calling call or decline to establish or otherwise degrade interstate or international Collect Calling solely for the reason that it lacks a billing relationship with the called party's communications service provider, unless the Provider offers Debit Calling, Prepaid Calling, or Prepaid Collect Calling for interstate and international calls.

[85 FR 67462, Oct. 23, 2020]

§ 64.6060 Annual reporting and certification requirement.

(a) Providers must submit a report to the Commission, by April 1st of each year, regarding interstate, intrastate, and international Inmate Calling Services for the prior calendar year. The report shall be categorized both by facility type and size and shall contain:

(1) Current interstate, intrastate, and international rates for Inmate Calling Services;

(2) Current Ancillary Service Charge amounts and the instances of use of each;

(3) The Monthly amount of each Site Commission paid;

(4)[Reserved]

(5) The number of TTY-based Inmate Calling Services calls provided per facility during the reporting period;

(6) The number of dropped calls the reporting Provider experienced with TTY-based calls; and

(7) The number of complaints that the reporting Provider received related to e.g., dropped calls, poor call quality and the number of incidences of each by TTY and TRS users.

(b) An officer or director of the reporting Provider must certify that the reported information and data are accurate and complete to the best of his or her knowledge, information, and belief.

[80 FR 79179, Dec. 18, 2015, as amended at 85 FR 67462, Oct. 23, 2020]

EFFECTIVE DATE NOTE: At 87 FR 75515, Dec. 9, 2022, §64.6060 was amended by revising paragraphs (a)(5), (6) and (7), these paragraphs have been delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 64.6060 Annual reporting and certification requirement.

(a) * * *

(5) For each facility served, the kinds of TRS that may be accessed from the facility;

(6) For each facility served, the number of calls completed during the reporting period in each of the following categories:

(i) TTY-to-TTY calls;

(ii) Point-to-point video calls placed or received by ASL users as those terms are defined in §64.601(a); and

(iii) TRS calls, broken down by each form of TRS that can be accessed from the facility; and

(7) For each facility served, the number of complaints that the reporting Provider received in each of the categories set forth in paragraph (a)(6) of this section.

§ 64.6070 Taxes and fees.

No Provider shall charge any taxes or fees to users of Inmate Calling Services for, or in connection with, interstate or international calls, other than those permitted under §64.6020, and those defined as Mandatory Taxes, Mandatory Fees, or Authorized Fees.

[85 FR 67462, Oct. 23, 2020]

§ 64.6080 Per-Call or Per-Connection Charges.

No Provider shall impose a Per-Call or Per-Connection Charge on a Consumer for any interstate or international calls.

[85 FR 67462, Oct. 23, 2020]

§ 64.6090 Flat-Rate Calling.

No Provider shall offer Flat-Rate Calling for interstate or international Inmate Calling Services.

[85 FR 67462, Oct. 23, 2020]

§ 64.6100 Minimum and maximum Prepaid Calling account balances.

(a) No Provider shall institute a minimum balance requirement for a Consumer to use Debit or Prepaid Calling for interstate or international calls.

(b) No Provider shall prohibit a consumer from depositing at least $50 per transaction to fund a Debit or Prepaid Calling account that can be used for interstate or international calls.

[85 FR 67462, Oct. 23, 2020]

§ 64.6110 Consumer disclosure of Inmate Calling Services rates.

(a) Providers must clearly, accurately, and conspicuously disclose their interstate, intrastate, and international rates and Ancillary Service Charges to consumers on their websites or in another reasonable manner readily available to consumers. In connection with international rates, providers shall also separately disclose the rate component for terminating calls to each country where that provider terminates International Calls.

(b) Providers must clearly label the Facility-Related Rate Component (either the Legally Mandated Facility Rate Component or the Contractually Prescribed Facility Rate Component) identified in §64.6030(d) as a separate line item on Consumer bills for the recovery of permissible facility-related costs contained in Site Commission payments. To be clearly labeled, the Facility-Related Rate Component shall:

(1) Identify the Provider's obligation to pay a Site Commission as either imposed by state statutes or laws or regulations that are adopted pursuant to

state administrative procedure statutes where there is notice and an opportunity for public comment that operates independently of the contracting process between Correctional Institutions and Providers or subject to a contract with the Correctional Facility;

(2) Where the Site Commission is imposed by state statute, or law or regulation adopted pursuant to state administrative procedure statutes where there is notice and an opportunity for public comment and that operates independently of the contracting process between Correctional Institutions and Providers, specify the relevant statute, law, or regulation.

(3) Identify the amount of the Site Commission payment, expressed as a per-minute or per-call charge, a percentage of revenue, or a flat fee; and

(4) Identify the amount charged to the Consumer for the call or calls on the bill.

(c) Providers must clearly label all charges for International Calls in § 64.6030(e) as a separate line item on Consumer bills. To be clearly labeled, providers must identify the amount charged to the Consumer for the International Call, including the costs paid by the provider to its underlying international providers to terminate the International Call to the international destination of the call.

[87 FR 40732, July 28, 2021, as amended at 87 FR 7956, Feb. 11, 2022]

§ 64.6120 Waiver process.

(a) A Provider may seek a waiver of the interim rate caps established in § 64.6030 and the Ancillary Service Charge fee caps on a Correctional Facility or contract basis if the interstate or international rate caps or Ancillary Service Charge fee caps prevent the Provider from recovering the costs of providing interstate or international Inmate Calling Services at a Correctional Facility or at the Correctional Facilities covered by a contract.

(b) At a minimum, a Provider seeking such a waiver is required to submit:

(1) The Provider's total company costs, including the nonrecurring costs of the assets it uses to provide Inmate Calling Services, and its recurring operating expenses for these services at the Correctional Facility or under the contract;

(2) The methods the provider used to identify its direct costs of providing interstate and international Inmate Calling Services, to allocate its indirect costs between its Inmate Calling Services and other operations, and to assign its direct costs to and allocate its indirect costs among its Inmate Calling Services contracts and Correctional Facilities;

(3) The Provider's demand for interstate and international Inmate Calling Services at the Correctional Facility or at each Correctional Facility covered by the contract;

(4) The revenue or other compensation the Provider receives from the provision interstate and international Inmate Calling Services, including the allowable portion of any permissible Ancillary Service Charges attributable to interstate or international inmate calling services, at the Correctional Facility or at each Correctional Facility covered by the contract;

(5) A complete and unredacted copy of the contract for the Correctional Facility or Correctional Facilities, and any amendments to such contract;

(6) Copies of the initial request for proposals and any amendments thereto, the Provider's bid in response to that request, and responses to any amendments (or a statement that the Provider no longer has access to those documents because they were executed prior to the date this section is codified.

(7) A written explanation of how and why the circumstances associated with that Correctional Facility or contract differ from the circumstances at similar Correctional Facilities the Provider serves, and from other Correctional Facilities covered by the same contract, if applicable; and

(8) An attestation from a company officer with knowledge of the underlying information that all of the information the provider submits in support of its waiver request is complete and correct.

(c) A Provider seeking a waiver pursuant to paragraph (a) of this section

must provide any additional information requested by the Commission during the course of its review.

[87 FR 40732, July 28, 2021, as amended at 87 FR 7956, Feb. 11, 2022]

§ 64.6130 Interim protections of consumer funds in inactive accounts.

(a) All funds deposited into a debit calling or prepaid calling account that can be used to pay for interstate or international Inmate Calling Services or associated ancillary services shall remain the property of the account holder unless or until the funds are either:

(1) Used to pay for products or services purchased by the account holder or the incarcerated person for whose benefit the account was established;

(2) Disposed of in accordance with a Controlling Judicial or Administrative Mandate; or

(3) Disposed of in accordance with applicable state law requirements, including, but not limited to, requirements governing unclaimed property.

(b) No provider may seize or otherwise dispose of unused funds in a debit calling or prepaid calling account until at least 180 calendar days of continuous account inactivity has passed, or at the end of any alternative period set by state law, except as provided in paragraph (a) of this section or through a refund to the customer.

(c) The 180-day period, or alternative period set by state law, must be continuous. Any of the following actions by the account holder or the incarcerated person for whose benefit the account was established ends the period of inactivity and restarts the 180-day period:

(1) Depositing, crediting, or otherwise adding funds to an account;

(2) Withdrawing, spending, debiting, transferring, or otherwise removing funds from an account; or

(3) Expressing an interest in retaining, receiving, or transferring the funds in an account, or otherwise attempting to exert or exerting ownership or control over the account or the funds held within the account.

(d) After 180 days of continuous account inactivity have passed, or at the end of any alternative period set by state law, the provider must make reasonable efforts to refund the balance in the account to the account holder.

(e) If a provider's reasonable efforts to refund the balance of the account fail, the provider must treat the remaining funds in accordance with applicable state consumer protection law requirements concerning unclaimed funds or the disposition of such funds.

[87 FR 75515, Dec. 9, 2022]

Subpart GG—National Deaf-Blind Equipment Distribution Program

SOURCE: 81 FR 65975, Sept. 26, 2016, unless otherwise noted.

§ 64.6201 Purpose.

The National Deaf-Blind Equipment Distribution Program (NDBEDP) is established to support programs that distribute Equipment to low-income individuals who are deaf-blind.

§ 64.6203 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Covered Services.* Telecommunications service, Internet access service, and advanced communications services, including interexchange services and advanced telecommunications and information services.

(b) *Equipment.* Hardware, software, and applications, whether separate or in combination, mainstream or specialized, needed by an individual who is deaf-blind to achieve access to Covered Services.

(c) *Individual who is deaf-blind.* (1) Any individual:

(i) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) For whom the combination of impairments described in paragraphs

(c)(1)(i) and (ii) of this section cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation.

(2) An individual's functional abilities with respect to using Covered Services in various environments shall be considered when determining whether the individual is deaf-blind under paragraphs (c)(1)(ii) and (iii) of this section.

(3) The definition in this paragraph (c) also includes any individual who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

(d) *Specialized customer premises equipment* means equipment employed on the premises of a person, which is commonly used by individuals with disabilities to achieve access to Covered Services.

(e) *TRS Fund Administrator*. The entity selected by the Commission to administer the Interstate Telecommunications Relay Service Fund (TRS Fund) established pursuant to subpart F.

§ 64.6205 Administration of the program.

The Consumer and Governmental Affairs Bureau shall designate a Commission official as the NDBEDP Administrator to ensure the effective, efficient, and consistent administration of the program, determine annual funding allocations and reallocations, and review reimbursement claims to ensure that the claimed costs are consistent with the NDBEDP rules.

§ 64.6207 Certification to receive funding.

For each state, including the District of Columbia and U.S. territories, the Commission will certify a single program as the sole entity authorized to receive reimbursement for NDBEDP activities from the TRS Fund. Such entity will have full responsibility for distributing equipment and providing related services, such as outreach, assessments, installation, and training, in that state, either directly or through collaboration, partnership, or contract with other individuals or entities in-state or out-of-state, including other NDBEDP certified programs.

(a) *Eligibility for certification*. Public or private entities, including, but not limited to, equipment distribution programs, vocational rehabilitation programs, assistive technology programs, schools for the deaf, blind, or deaf-blind, organizational affiliates, independent living centers, or private educational facilities, may apply to the Commission for certification.

(b) *When to apply*. Applications for certification shall be filed:

(1) Within 60 days after the effective date of this section;

(2) At least one year prior to the expiration of a program's certification;

(3) Within 30 days after public notice of a program's relinquishment of certification; and

(4) If an application deadline is extended or a vacancy exists for other reasons than relinquishment or expiration of a certification, within the time period specified by public notice.

(c) *Qualifications*. Applications shall contain sufficient detail to demonstrate the entity's ability to meet all criteria required for certification and a commitment to comply with all Commission requirements governing the NDBEDP. The Commission shall review applications and determine whether to grant certification based on the ability of an entity to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:

(1) Expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of individuals who are deaf-blind;

(2) The ability to communicate effectively with individuals who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using

other assistive technologies and methods to achieve effective communication;

(3) Administrative and financial management experience;

(4) Staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to low-income individuals who are deaf-blind throughout the state, including those in remote areas;

(5) Experience with the distribution of specialized customer premises equipment, especially to individuals who are deaf-blind;

(6) Experience in training consumers on how to use Equipment and how to set up Equipment for its effective use;

(7) Familiarity with Covered Services; and,

(8) If the applicant is seeking renewal of certification, ability to provide Equipment and related services in compliance with this subpart.

(d) *Conflicts of interest.* (1) An applicant for certification shall disclose in its application any relationship, arrangement, or agreement with a manufacturer or provider of Equipment or related services that poses an actual or potential conflict of interest, as well as the steps the applicant will take to eliminate such actual or potential conflict or to minimize the associated risks. If an applicant learns of a potential or actual conflict while its application is pending, it must immediately disclose such conflict to the Commission. The Commission may reject an application for NDBEDP certification, or may require an applicant, as a condition of certification, to take additional steps to eliminate, or to minimize the risks associated with, an actual or potential conflict of interest, if relationships, arrangements, or agreements affecting the applicant are likely to impede its objectivity in the distribution of Equipment or its ability to comply with NDBEDP requirements.

(2) A certified entity shall disclose to the Commission any relationship, arrangement, or agreement with a manufacturer or provider of Equipment or related services that comes into being or is discovered after certification is granted and that poses an actual or potential conflict of interest, as well as the steps the entity will take to eliminate such actual or potential conflict or to minimize the associated risks, within 30 days after the entity learns or should have learned of such actual or potential conflict of interest. The Commission may suspend or revoke an NDBEDP certification or may require a certified entity, as a condition of continued certification, to take additional steps to eliminate, or to minimize the risks associated with, an actual or potential conflict of interest, if relationships, arrangements, or agreements affecting the entity are likely to impede its objectivity in the distribution of Equipment or its ability to comply with NDBEDP requirements.

(e) *Certification period.* Certification granted under this section shall be for a period of five years. A program may apply for renewal of its certification by filing a new application at least one year prior to the expiration of the certification period. If a certified entity is replaced prior to the expiration of the certification period, the successor entity's certification will expire on the date that the replaced entity's certification would have expired.

(f) *Notification of substantive change.* A certified program shall notify the Commission within 60 days of any substantive change that bears directly on its ability to meet the qualifications necessary for certification under paragraph (c) of this section.

(g) *Relinquishment of certification.* A program wishing to relinquish its certification before its certification expires shall electronically provide written notice of its intent to do so to the NDBEDP Administrator and the TRS Fund Administrator at least 90 days in advance, explaining the reason for such relinquishment and providing its proposed departure date. After receiving such notice, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity and effective oversight of the NDBEDP for the affected state.

(h) *Suspension or revocation of certification.* The Commission may suspend or revoke NDBEDP certification if, after notice and an opportunity to object, the Commission determines that an entity is no longer qualified for certification. Within 30 days after being

notified of a proposed suspension or revocation of certification, the reason therefor, and the applicable suspension or revocation procedures, a certified entity may present written arguments and any relevant documentation as to why suspension or revocation of certification is not warranted. Failure to respond to a notice of suspension or revocation within 30 days may result in automatic suspension or revocation of certification. A suspension of certification will remain in effect until the expiration date, if any, or until the fulfillment of conditions stated in a suspension decision. A revocation will be effective for the remaining portion of the current certification period. In the event of suspension or revocation, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity and effective oversight of the NDBEDP for the affected state.

(i) [Reserved]

(j) *Certification transitions*. When a new entity is certified as a state's program, the previously certified entity shall:

(1) Within 30 days after the new entity is certified, and as a condition precedent to receiving payment for any reimbursement claims pending as of or after the date of certification of the successor entity,

(i) Transfer to the new entity all NDBEDP data, records, and information for the previous five years, and any Equipment remaining in inventory;

(ii) Provide notification in accessible formats about the newly-certified state program to state residents who are in the process of obtaining Equipment or related services, or who received Equipment during the previous three-year period; and

(iii) Inform the NDBEDP Administrator that such transfer and notification have been completed;

(2) Submit all reimbursement claims, reports, audits, and other required information relating to the previously certified entity's provision of Equipment and related services; and

(3) Take all other steps reasonably necessary to ensure an orderly transfer of responsibilities and uninterrupted functioning of the state program.

§ 64.6209 Eligibility criteria.

Before providing Equipment or related services to an individual, a certified program shall verify the individual's eligibility in accordance with this section.

(a) *Verification of disability*. A certified program shall require an individual applying for Equipment and related services to provide verification of disability in accordance with paragraph (a)(1) or (2) of this section.

(1) The individual may provide an attestation from a professional with direct knowledge of the individual's disability, either to the best of the professional's knowledge or under penalty of perjury, that the applicant is deaf-blind (as defined in § 64.6203(c) of this part). Such attestation shall include the attesting professional's full name, title, and contact information, including business name, address, phone number, and email address. Such attestation shall also include the basis of the attesting professional's knowledge that the individual is deaf-blind and may also include information about the individual's functional abilities to use Covered Services in various settings.

(2) The individual may provide existing documentation that the individual is deaf-blind, such as an individualized education program (IEP) or a Social Security determination letter.

(b) *Verification of income eligibility*. A certified program shall require an individual applying for Equipment and related services to provide verification that his or her income does not exceed 400 percent of the Federal Poverty Guidelines, as defined in 42 U.S.C. 9902(2), or that he or she is enrolled in a federal program with an income eligibility requirement that does not exceed 400 percent of the Federal Poverty Guidelines, such as Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income, Federal Public Housing Assistance, or Veterans and Survivors Pension Benefit. The NDBEDP Administrator may identify state or other federal programs with income eligibility thresholds that

do not exceed 400 percent of the Federal Poverty Guidelines for determining income eligibility for participation in the NDBEDP. When an applicant is not already enrolled in a qualifying low-income program, income eligibility may be verified by the certified program using appropriate and reasonable means.

(c) *Prohibition against requiring employment.* No certified program may require, for eligibility, that an applicant be employed or actively seeking employment.

(d) *Availability of Covered Services.* A certified program may require an equipment recipient to demonstrate, for eligibility, that a Covered Service that the Equipment is designed to use is available for use by the individual.

(e) *Age.* A certified program may not establish eligibility criteria that exclude low-income individuals who are deaf-blind of a certain age from applying for or receiving Equipment if the needs of such individuals are not being met through other available resources.

(f) *Reverification.* If an individual who has previously received equipment from a certified program applies to a certified program for additional Equipment or related services one year or more after the individual's income was last verified, the certified program shall re-verify an individual's income eligibility in accordance with paragraph (b) before providing new Equipment or related services. If a certified program has reason to believe that an individual's vision or hearing has improved sufficiently that the individual is no longer eligible for Equipment or related services, the certified program shall require reverification of the individual's disability in accordance with paragraph (a) before providing new Equipment or related services.

§ 64.6211 Equipment distribution and related services.

(a) A certified program shall:

(1) Distribute Equipment and provide related services;

(2) Permit the transfer of a recipient's account, records, and any title to and control of the distributed Equipment to another state's certified program when a recipient relocates to another state;

(3) Permit the transfer of a recipient's account, records, and any title to and control of the distributed Equipment from another state's NDBEDP certified program when a recipient relocates to the program's state;

(4) Prohibit recipients from transferring Equipment received under the NDBEDP to another person through sale or otherwise, and if it learns that an individual has unlawfully obtained, sold, or transferred Equipment, take appropriate steps to reclaim the Equipment or its worth;

(5) Include the following or a substantially similar attestation on all consumer application forms:

> I certify that all information provided on this application, including information about my disability and income, is true, complete, and accurate to the best of my knowledge. I authorize program representatives to verify the information provided.
>
> I permit information about me to be shared with my state's current and successor program managers and representatives for the administration of the program and for the delivery of equipment and services to me. I also permit information about me to be reported to the Federal Communications Commission for the administration, operation, and oversight of the program.
>
> If I am accepted into the program, I agree to use program services solely for the purposes intended. I understand that I may not sell, give, or lend to another person any equipment provided to me by the program.
>
> If I provide any false records or fail to comply with these or other requirements or conditions of the program, program officials may end services to me immediately. Also, if I violate these or other requirements or conditions of the program on purpose, program officials may take legal action against me.
>
> I certify that I have read, understand, and accept these conditions to participate in iCanConnect (the National Deaf-Blind Equipment Distribution Program);

(6) Conduct outreach, in accessible formats, to inform state residents about the NDBEDP, which may include the development and maintenance of a program Web site;

(7) Engage an independent auditor to conduct an annual audit, submit a copy of the annual audit to the NDBEDP Administrator, and submit to audits as deemed appropriate by the Commission or its delegated authorities;

(8) Document compliance with all Commission requirements governing

the NDBEDP and provide such documentation to the Commission upon request;

(9) Retain all records associated with the distribution of Equipment and provision of related services under the NDBEDP, including records that support reimbursement claims and reports required by §§ 64.6213 and 64.6215 of this part, for a minimum of five years; and

(10) Comply with other applicable provisions of this section.

(b) A certified program shall not:

(1) Impose restrictions on specific brands, models or types of communications technology that recipients may receive to access Covered Services; or

(2) Disable or hinder the use of, or direct manufacturers or vendors of Equipment to disable or hinder the use of, any capabilities, functions, or features on distributed Equipment that are needed to access Covered Services;

(3) Accept any type of financial arrangement from Equipment vendors that creates improper incentives to purchase particular Equipment.

§ 64.6213 Payments to NDBEDP certified programs.

(a) Programs certified under the NDBEDP shall be reimbursed for the cost of Equipment that has been distributed to low-income individuals who are deaf blind and authorized related services, up to the state's funding allocation under this program as determined by the Commission or any entity authorized to act for the Commission on delegated authority.

(b) Upon certification and at the beginning of each TRS Fund year, state programs may elect to submit reimbursement claims on a monthly, quarterly, or semiannual basis;

(c) Within 30 days after the end of each reimbursement period during the TRS Fund year, each certified program must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:

(1) Equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing, upgrading, and replacing Equipment distributed to consumers;

(2) Individual needs assessments;

(3) Installation of Equipment and individualized consumer training;

(4) Maintenance of an inventory of Equipment that can be loaned to consumers during periods of Equipment repair or used for other NDBEDP purposes, such as conducting individual needs assessments;

(5) Outreach efforts to inform state residents about the NDBEDP;

(6) Train-the-trainer activities and programs;

(7) Travel expenses; and

(8) Administrative costs, defined as indirect and direct costs that are not included in other cost categories of this paragraph (c) and that are necessary for the operation of a program, but not to exceed 15 percent of the certified program's funding allocation.

(d) Documentation will be provided in accordance with claim filing instructions issued by the TRS Fund Administrator. The NDBEDP Administrator and the TRS Fund Administrator may require a certified program to submit supplemental information and documentation when necessary to verify particular claims.

(e) With each request for payment, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a manager or director, with first-hand knowledge of the accuracy and completeness of the claim in the request, must certify as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that I have examined all cost data associated with equipment and related services for the claims submitted herein, and that all such data are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

§ 64.6215 Reporting requirements.

(a) Every six months, for the periods January through June and July through December, a certified program shall submit data to the Commission in the following categories:

(1) Each Equipment recipient's identity and other relevant characteristics;

(2) Information about the Equipment provided, including costs;

(3) Information about assessments, installation, and training, including costs;

(4) Information about local outreach undertaken, including costs; and

(5) Promptness of service.

(b) The categories of information to be reported may be supplemented by the Chief, Consumer and Governmental Affairs Bureau, as necessary to further the purposes of the program and prevent fraud, waste, and abuse. Reports are due 60 days after the end of a reporting period. The specific items of information to be reported in each category and the manner in which they are to be reported shall be set forth in instructions issued by the NDBEDP Administrator.

(c) With each report, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of the information provided in the report, must certify as follows:

I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that the entity has policies and procedures in place to ensure that recipients satisfy the NDBEDP eligibility requirements, that the entity is in compliance with the Commission's NDBEDP rules, that I have examined the foregoing reports and that all requested information has been provided, and all statements of fact are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

§ 64.6217 Complaints.

Complaints against NDBEDP certified programs for alleged violations of this subpart may be either informal or formal.

(a) *Informal complaints.* (1) An informal complaint may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as letter, fax, telephone, TTY, email, or the Commission's online complaint filing system.

(2) *Content.* An informal complaint shall include the name and address of the complainant; the name of the NDBEDP certified program against whom the complaint is made; a statement of facts supporting the complainant's allegation that the NDBEDP certified program has violated or is violating section 719 of the Communications Act or the Commission's rules, or both; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the NDBEDP certified program, such as by letter, fax, telephone, TTY, or email.

(3) *Service.* The Commission shall promptly forward any complaint meeting the requirements of this subsection to the NDBEDP certified program named in the complaint and call upon the program to satisfy or answer the complaint within the time specified by the Commission.

(b) *Review and disposition of informal complaints.* (1) Where it appears from the NDBEDP certified program's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and NDBEDP certified program in the manner requested by the complainant.

(2) A complainant unsatisfied with the NDBEDP certified program's response to the informal complaint and the Commission's disposition of the informal complaint may file a formal complaint with the Commission pursuant to paragraph (c) of this section.

(c) *Formal complaints.* Formal complaints against an NDBEDP certified program may be filed in the form and in the manner prescribed under §§ 1.720 through 1.740 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§ 1.720 through 1.740 of this chapter for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§ 1.721 and 1.722 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 719 of the Communications Act or this subpart.

(d) *Actions by the Commission on its own motion.* The Commission may on

its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and section 719 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed by the Communications Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

[81 FR 65975, Sept. 26, 2016, as amended at 83 FR 44843, Sept.4, 2018]

§ 64.6219 Whistleblower protections.

(a) NDBEDP certified programs shall permit, without reprisal in the form of an adverse personnel action, purchase or contract cancellation or discontinuance, eligibility disqualification, or otherwise, any current or former employee, agent, contractor, manufacturer, vendor, applicant, or recipient, to disclose to a designated official of the certified program, the NDBEDP Administrator, the TRS Fund Administrator, the Commission, or to any federal or state law enforcement entity, any known or suspected violations of the Communications Act or Commission rules, or any other activity that the reporting person reasonably believes to be unlawful, wasteful, fraudulent, or abusive, or that otherwise could result in the improper distribution of Equipment, provision of services, or billing to the TRS Fund.

(b) NDBEDP certified programs shall include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their Web sites, and in other appropriate publications.

Subpart HH—Caller ID Authentication

SOURCE: 85 FR 22043, Apr. 21, 2020, unless otherwise noted.

§ 64.6300 Definitions.

(a) *Authenticate caller identification information*. The term ''authenticate caller identification information'' refers to the process by which a voice service provider attests to the accuracy of caller identification information transmitted with a call it originates.

(b) *Caller identification information*. The term ''caller identification information'' has the same meaning given the term ''caller identification information'' in 47 CFR 64.1600(c) as it currently exists or may hereafter be amended.

(c) *Foreign voice service provider*. The term ''foreign voice service provider'' refers to any entity providing voice service outside the United States that has the ability to originate voice service that terminates in a point outside that foreign country or terminate voice service that originates from points outside that foreign country.

(d) *Gateway provider*. The term ''gateway provider'' means a U.S.-based intermediate provider that receives a call directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider. For purposes of this paragraph (d):

(1) *U.S.-based* means that the provider has facilities located in the United States, including a point of presence capable of processing the call; and

(2) *Receives a call directly* from a provider means the foreign provider directly upstream of the gateway provider in the call path sent the call to the gateway provider, with no providers in-between.

(e) *Governance Authority*. The term ''Governance Authority'' refers to the Secure Telephone Identity Governance Authority, the entity that establishes and governs the policies regarding the issuance, management, and revocation of Service Provider Code (SPC) tokens to intermediate providers and voice service providers.

(f) *Industry traceback consortium*. The term ''industry traceback consortium'' refers to the consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls as selected by the Commission pursuant to § 64.1203.

(g) *Intermediate provider*. The term ''intermediate provider'' means any entity that carries or processes traffic that traverses or will traverse the public switched telephone network at any

point insofar as that entity neither originates nor terminates that traffic.

(h) *Non-facilities-based small voice service provider.* The term ''non-facilities-based small voice service provider'' means a small voice service provider that is offering voice service to end-users solely using connections that are not sold by the provider or its affiliates.

(i) *Non-gateway intermediate provider.* The term ''non-gateway intermediate provider'' means any entity that is an intermediate provider as that term is defined by paragraph (g) of this section that is not a gateway provider as that term is defined by paragraph (d) of this section.

(j) *Robocall Mitigation Database.* The term ''Robocall Mitigation Database'' refers to a database accessible via the Commission's website that lists all entities that make filings pursuant to § 64.6305(b).

(k) *SIP call.* The term ''SIP call'' refers to calls initiated, maintained, and terminated using the Session Initiation Protocol signaling protocol.

(l) *SPC token.* The term ''SPC token'' refers to the Service Provider Code token, an authority token validly issued to an intermediate provider or voice service provider that allows the provider to authenticate and verify caller identification information consistent with the STIR/SHAKEN authentication framework in the United States.

(m) *STIR/SHAKEN authentication framework.* The term ''STIR/SHAKEN authentication framework'' means the secure telephone identity revisited and signature-based handling of asserted information using tokens standards.

(n) *Verify caller identification information.* The term ''verify caller identification information'' refers to the process by which a voice service provider confirms that the caller identification information transmitted with a call it terminates was properly authenticated.

(o) *Voice service.* The term ''voice service''—

(1) Means any service that is interconnected with the public switched telephone network and that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1) of the Communications Act of 1934, as amended; and

(2) Includes—

(i) Transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine; and

(ii) Without limitation, any service that enables real-time, two-way voice communications, including any service that requires internet Protocol-compatible customer premises equipment and permits out-bound calling, whether or not the service is one-way or two-way voice over internet Protocol.

[85 FR 22043, Apr. 21, 2020, as amended at 85 FR 73394, Nov. 17, 2020; 87 FR 3693, Jan. 25, 2022; 87 FR 42946, July 18, 2022; 88 FR 40117, June 21, 2023]

§ 64.6301 Caller ID authentication.

(a) *STIR/SHAKEN implementation by voice service providers.* Except as provided in §§ 64.6304 and 64.6306, not later than June 30, 2021, a voice service provider shall fully implement the STIR/SHAKEN authentication framework in its internet Protocol networks. To fulfill this obligation, a voice service provider shall:

(1) Authenticate and verify caller identification information for all SIP calls that exclusively transit its own network;

(2) Authenticate caller identification information for all SIP calls it originates and that it will exchange with another voice service provider or intermediate provider and, to the extent technically feasible, transmit that call with authenticated caller identification information to the next voice service provider or intermediate provider in the call path; and

(3) Verify caller identification information for all SIP calls it receives from another voice service provider or intermediate provider which it will terminate and for which the caller identification information has been authenticated.

(b) [Reserved].

[85 FR 22043, Apr. 21, 2020, as amended at 85 FR 73394, Nov. 17, 2020]

§ 64.6302 Caller ID authentication by intermediate providers.

Not later than June 30, 2021, each intermediate provider shall fully implement the STIR/SHAKEN authentication framework in its internet Protocol networks. To fulfill this obligation, an intermediate provider shall:

(a) Pass unaltered to the subsequent intermediate provider or voice service provider in the call path any authenticated caller identification information it receives with a SIP call, subject to the following exceptions under which it may remove the authenticated caller identification information:

(1) Where necessary for technical reasons to complete the call; or

(2) Where the intermediate provider reasonably believes the caller identification authentication information presents an imminent threat to its network security; and

(b) Authenticate caller identification information for all calls it receives for which the caller identification information has not been authenticated and which it will exchange with another provider as a SIP call, except that the intermediate provider is excused from such duty to authenticate if it:

(1) Cooperatively participates with the industry traceback consortium; and

(2) Responds fully and in a timely manner to all traceback requests it receives from the Commission, law enforcement, and the industry traceback consortium regarding calls for which it acts as an intermediate provider.

(c) Notwithstanding paragraph (b) of this section, a gateway provider must, not later than June 30, 2023, authenticate caller identification information for all calls it receives that use North American Numbering Plan resources that pertain to the United States in the caller ID field and for which the caller identification information has not been authenticated and which it will exchange with another provider as a SIP call, unless that gateway provider is subject to an applicable extension in § 64.6304.

(d) Notwithstanding paragraph (b) of this section, a non-gateway intermediate provider must, not later than December 31, 2023, authenticate caller identification information for all calls it receives directly from an originating provider and for which the caller identification information has not been authenticated and which it will exchange with another provider as a SIP call, unless that non-gateway intermediate provider is subject to an applicable extension in § 64.6304.

[85 FR 73395, Nov. 17, 2020, as amended at 87 FR 42946, July 18, 2022; 88 FR 40118, June 21, 2023]

§ 64.6303 Caller ID authentication in non-IP networks.

(a) Except as provided in §§ 64.6304 and 64.6306, not later than June 30, 2021, a voice service provider shall either:

(1) Upgrade its entire network to allow for the initiation, maintenance, and termination of SIP calls and fully implement the STIR/SHAKEN framework as required in § 64.6301 throughout its network; or

(2) Maintain and be ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

(b) Except as provided in § 64.6304, not later than June 30, 2023, a gateway provider shall either:

(1) Upgrade its entire network to allow for the processing and carrying of SIP calls and fully implement the STIR/SHAKEN framework as required in § 64.6302(c) throughout its network; or

(2) Maintain and be ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

(c) [Reserved]

[87 FR 42946, July 18, 2022, as amended at 87 FR 75944, Dec. 12, 2022; 88 FR 40118, June 21, 2023]

EFFECTIVE DATE NOTES: At 87 FR 42946, July 18, 2022, § 64.6303 was revised, however paragraph (b) has been delayed indefinitely.

2. At 88 FR 40118, June 21, 2023, § 64.6303 was amended by adding paragraph (c), however this amendment was delayed indefinitely.For the convenience of the user, the added text is set forth as follows:

§ 64.6303 Caller ID authentication in non-IP networks.

* * * * *

(c) Except as provided in § 64.6304, not later than December 31, 2023, a non-gateway intermediate provider receiving a call directly from an originating provider shall either:

(1) Upgrade its entire network to allow for the processing and carrying of SIP calls and fully implement the STIR/SHAKEN framework as required in § 64.6302(d) throughout its network; or

(2) Maintain and be ready to provide the Commission on request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

§ 64.6304 Extension of implementation deadline.

(a) *Small voice service providers.* (1) Small voice service providers are exempt from the requirements of § 64.6301 through June 30, 2023, except that:

(i) A non-facilities-based small voice service provider is exempt from the requirements of § 64.6301 only until June 30, 2022;

(ii) A small voice service provider notified by the Enforcement Bureau pursuant to § 0.111(a)(27) of this chapter that fails to respond in a timely manner, fails to respond with the information requested by the Enforcement Bureau, including credible evidence that the robocall traffic identified in the notification is not illegal, fails to demonstrate that it taken steps to effectively mitigate the traffic, or if the Enforcement Bureau determines the provider violates § 64.1200(n)(2), will no longer be exempt from the requirements of § 64.6301 beginning 90 days following the date of the Enforcement Bureau's determination, unless the extension would otherwise terminate earlier pursuant to paragraph (a)(1) introductory text or (a)(1)(i), in which case the earlier deadline applies; and

(iii) Small voice service providers that originate calls via satellite using North American Numbering Plan numbers are deemed subject to a continuing extension of § 64.6301.

(2) For purposes of this paragraph (a), ''small voice service provider'' means a provider that has 100,000 or fewer voice service subscriber lines (counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of the provider's affiliates).

(b) *Voice service providers, gateway providers, and non-gateway intermediate providers that cannot obtain an SPC token.* Voice service providers that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6301 until they are capable of obtaining an SPC token. Gateway providers that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6302(c) regarding call authentication. Non-gateway intermediate providers that are incapable of obtaining an SPC token due to Governance Authority policy are exempt from the requirements of § 64.6302(d) regarding call authentication.

(c) *Services scheduled for section 214 discontinuance.* Services which are subject to a pending application for permanent discontinuance of service filed as of June 30, 2021, pursuant to the processes established in 47 CFR 63.60 through 63.100, as applicable, are exempt from the requirements of § 64.6301 through June 30, 2022.

(d) *Non-IP networks.* Those portions of a voice service provider, gateway provider, or non-gateway intermediate provider's network that rely on technology that cannot initiate, maintain, carry, process, and terminate SIP calls are deemed subject to a continuing extension. A voice service provider subject to the foregoing extension shall comply with the requirements of § 64.6303(a) as to the portion of its network subject to the extension, a gateway provider subject to the foregoing

extension shall comply with the requirements of § 64.6303(b) as to the portion of its network subject to the extension, and a non-gateway intermediate provider receiving calls directly from an originating provider subject to the foregoing extension shall comply with the requirements of § 64.6303(c) as to the portion of its network subject to the extension.

(e) *Provider-specific extensions.* The Wireline Competition Bureau may extend the deadline for compliance with § 64.6301 for voice service providers that file individual petitions for extensions by November 20, 2020. The Bureau shall seek comment on any such petitions and issue an order determining whether to grant the voice service provider an extension no later than March 30, 2021.

(f) *Annual reevaluation of granted extensions.* The Wireline Competition Bureau shall, in conjunction with an assessment of burdens and barriers to implementation of caller identification authentication technology, annually review the scope of all previously granted extensions and, after issuing a Public Notice seeking comment, may extend or decline to extend each such extension, and may decrease the scope of entities subject to a further extension.

[85 FR 73395, Nov. 17, 2020, as amended at 87 FR 3693, Jan. 25, 2022; 87 FR 42946, July 18, 2022; 88 FR 40118, June 21, 2023]

§ 64.6305 Robocall mitigation and certification.

(a) *Robocall mitigation program requirements for voice service providers.* (1) Each voice service provider shall implement an appropriate robocall mitigation program.

(2) Any robocall mitigation program implemented pursuant to paragraph (a)(1) of this section shall include reasonable steps to avoid originating illegal robocall traffic and shall include a commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

(b) *Robocall mitigation program requirements for gateway providers.* (1) Each gateway provider shall implement an appropriate robocall mitigation program with respect to calls that use North American Numbering Plan resources that pertain to the United States in the caller ID field.

(2) Any robocall mitigation program implemented pursuant to paragraph (b)(1) of this section shall include reasonable steps to avoid carrying or processing illegal robocall traffic and shall include a commitment to respond fully and within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

(c) *Robocall mitigation program requirements for non-gateway intermediate providers.* (1) Each non-gateway intermediate provider shall implement an appropriate robocall mitigation program.

(2) Any robocall mitigation program implemented pursuant to paragraph (c)(1) of this section shall include reasonable steps to avoid carrying or processing illegal robocall traffic and shall include a commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

(d) *Certification by voice service providers in the Robocall Mitigation Database.* (1) Not later than June 30, 2021, a voice service provider, regardless of whether it is subject to an extension granted under § 64.6304, shall certify to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it originates are compliant with § 64.6301(a)(1) and (2);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it originates on that portion of its network are compliant with § 64.6301(a)(1) and (2), and the remainder of the calls

that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section; or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network, and all of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section.

(2) A voice service provider that certifies that some or all of the calls that originate on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section shall include the following information in its certification in English or with a certified English translation:

(i) Identification of the type of extension or extensions the voice service provider received under § 64.6304, if the voice service provider is not a foreign voice service provider;

(ii) The specific reasonable steps the voice service provider has taken to avoid originating illegal robocall traffic as part of its robocall mitigation program; and

(iii) A statement of the voice service provider's commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

(3) All certifications made pursuant to paragraphs (d)(1) and (2) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) A voice service provider filing a certification shall submit the following information in the appropriate portal on the Commission's website:

(i) The voice service provider's business name(s) and primary address;

(ii) Other business names in use by the voice service provider;

(iii) All business names previously used by the voice service provider;

(iv) Whether the voice service provider is a foreign voice service provider; and

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues.

(5) A voice service provider shall update its filings within 10 business days of any change to the information it must provide pursuant to paragraphs (d)(1) through (4) of this section.

(i) A voice service provider or intermediate provider that has been aggrieved by a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token need not update its filing on the basis of that revocation until the sixty (60) day period to request Commission review, following completion of the Governance Authority's formal review process, pursuant to § 64.6308(b)(1) expires or, if the aggrieved voice service provider or intermediate provider files an appeal, until ten business days after the Wireline Competition Bureau releases a final decision pursuant to § 64.6308(d)(1).

(ii) If a voice service provider or intermediate provider elects not to file a formal appeal of the Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token, the provider need not update its filing on the basis of that revocation until the thirty (30) day period to file a formal appeal with the Governance Authority Board expires.

(e) *Certification by gateway providers in the Robocall Mitigation Database.* (1) By January 11, 2023, a gateway provider shall certify to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it carries or processes are compliant with § 64.6302(b);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it carries or processes on that portion of its network are compliant with § 64.6302(b); or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network for carrying or processing calls.

(2) A gateway provider shall include the following information in its certification made pursuant to paragraph (e)(1) of this section, in English or with a certified English translation:

(i) Identification of the type of extension or extensions the gateway provider received under § 64.6304;

(ii) The specific reasonable steps the gateway provider has taken to avoid carrying or processing illegal robocall traffic as part of its robocall mitigation program, including a description of how it has complied with the know-your-upstream provider requirement in § 64.1200(n)(4); and

(iii) A statement of the gateway provider's commitment to respond fully and within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

(3) All certifications made pursuant to paragraphs (e)(1) and (2) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) A gateway provider filing a certification shall submit the following information in the appropriate portal on the Commission's website:

(i) The gateway provider's business name(s) and primary address;

(ii) Other business names in use by the gateway provider;

(iii) All business names previously used by the gateway provider;

(iv) Whether the gateway provider or any affiliate is also a foreign voice service provider; and

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues.

(5) A gateway provider shall update its filings within 10 business days to the information it must provide pursuant to paragraphs (e)(1) through (4) of this section, subject to the conditions set forth in paragraphs (d)(5)(i) and (ii) of this section.

(f) [Reserved]

(g) *Intermediate provider and voice service provider obligations*—(1) *Accepting traffic from domestic voice service providers.* Intermediate providers and voice service providers shall accept calls directly from a domestic voice service provider only if that voice service provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (d) of this section and that filing has not been delisted pursuant to an enforcement action.

(2) *Accepting traffic from foreign providers.* Beginning April 11, 2023, intermediate providers and voice service providers shall accept calls directly from a foreign voice service provider or foreign intermediate provider that uses North American Numbering Plan resources that pertain to the United States in the caller ID field to send voice traffic to residential or business subscribers in the United States, only if that foreign provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (d) of this section and that filing has not been delisted pursuant to an enforcement action.

(3) *Accepting traffic from gateway providers.* Beginning April 11, 2023, intermediate providers and voice service providers shall accept calls directly from a gateway provider only if that gateway provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (e) of this section, showing that the gateway provider has affirmatively submitted the filing, and that filing has not been delisted pursuant to an enforcement action.

(4) [Reserved]

(5) *Public safety safeguards.* Notwithstanding paragraphs (g)(1) through (4) of this section:

(i) A provider may not block a voice call under any circumstances if the call is an emergency call placed to 911; and

(ii) A provider must make all reasonable efforts to ensure that it does not block any calls from public safety answering points and government emergency numbers.

[87 FR 42946, July 18, 2022, as amended at 88 FR 40118, June 21, 2023]

EFFECTIVE DATE NOTES: At 87 FR 42946, July 18, 2022, § 63.6305 was revised, however paragraphs (b), (c)(2), (d), (e)(2) and (3) are delayed indefinitely.

2. At 88 FR 40119, June 21, 2023 § 63.6305 was amended by revising paragraphs (d)(1) introductory text, (d)(1)(ii) and (iii), (d)(2), and (d)(4)(iv) and (v) and adding paragraphs (d)(4)(vi) and (vii)revising paragraphs (e)(1) introductory text and (e)(2)(i) through (iii),adding paragraph (e)(2)(iv), revising paragraphs (e)(4)(iv) and (v) and adding paragraphs (e)(4)(vi) and (vii) and adding paragraphs (f) and (g)(4), these amendments were delayed indefinitely. For the convenience of the user, the revised and added text is set forth as follows:

§ 64.6305 Robocall mitigation and certification.

* * * * *

(d) * * *

(1) A voice service provider shall certify that all of the calls that it originates on its network are subject to a robocall mitigation program consistent with paragraph (a) of this section, that any prior certification has not been removed by Commission action and it has not been prohibited from filing in the Robocall Mitigation Database by the Commission, and to one of the following:

* * * * *

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and all calls it originates on that portion of its network are compliant with § 64.6301(a)(1) and (2); or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network.

(2) A voice service provider shall include the following information in its certification in English or with a certified English translation:

(i) Identification of the type of extension or extensions the voice service provider received under § 64.6304, if the voice service provider is not a foreign voice service provider, and the basis for the extension or extensions, or an explanation of why it is unable to implement STIR/SHAKEN due to a lack of control over the network infrastructure necessary to implement STIR/SHAKEN;

(ii) The specific reasonable steps the voice service provider has taken to avoid originating illegal robocall traffic as part of its robocall mitigation program, including a description of how it complies with its obligation to know its customers pursuant to § 64.1200(n)(3), any procedures in place to know its upstream providers, and the analytics system(s) it uses to identify and block illegal traffic, including whether it uses any third-party analytics vendor(s) and the name(s) of such vendor(s);

(iii) A statement of the voice service provider's commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls; and

(iv) State whether, at any time in the prior two years, the filing entity (and/or any entity for which the filing entity shares common ownership, management, directors, or control) has been the subject of a formal Commission, law enforcement, or regulatory agency action or investigation with accompanying findings of actual or suspected wrongdoing due to the filing entity transmitting, encouraging, assisting, or otherwise facilitating illegal robocalls or spoofing, or a deficient Robocall Mitigation Database certification or mitigation program description; and, if so, provide a description of any such action or investigation, including all law enforcement or regulatory agencies involved, the date that any action or investigation was commenced, the current status of the action or investigation, a summary of the findings of wrongdoing made in connection with the action or investigation, and whether any final determinations have been issued.

* * * * *

(4) * * *

(iv) Whether the voice service provider is a foreign voice service provider;

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues;

(vi) Whether the voice service provider is:

(A) A voice service provider with a STIR/SHAKEN implementation obligation directly serving end users;

(B) A voice service provider with a STIR/SHAKEN implementation obligation acting as a wholesale provider originating calls on behalf of another provider or providers; or

(C) A voice service provider without a STIR/SHAKEN implementation obligation; and

(vii) The voice service provider's OCN, if it has one.

* * * * *

(e) * * *

(1) A gateway provider shall certify that all of the calls that it carries or processes on its network are subject to a robocall mitigation program consistent with paragraph (b)(1) of this section, that any prior certification has not been removed by Commission action and it has not been prohibited from

filing in the Robocall Mitigation Database by the Commission, and to one of the following:

* * * * *

(2) * * *

(i) Identification of the type of extension or extensions the gateway provider received under § 64.6304 and the basis for the extension or extensions, or an explanation of why it is unable to implement STIR/SHAKEN due to a lack of control over the network infrastructure necessary to implement STIR/SHAKEN;

(ii) The specific reasonable steps the gateway provider has taken to avoid carrying or processing illegal robocall traffic as part of its robocall mitigation program, including a description of how it complies with its obligation to know its upstream providers pursuant to § 64.1200(n)(4), the analytics system(s) it uses to identify and block illegal traffic, and whether it uses any third-party analytics vendor(s) and the name(s) of such vendor(s);

(iii) A statement of the gateway provider's commitment to respond fully and within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls; and

(iv) State whether, at any time in the prior two years, the filing entity (and/or any entity for which the filing entity shares common ownership, management, directors, or control) has been the subject of a formal Commission, law enforcement, or regulatory agency action or investigation with accompanying findings of actual or suspected wrongdoing due to the filing entity transmitting, encouraging, assisting, or otherwise facilitating illegal robocalls or spoofing, or a deficient Robocall Mitigation Database certification or mitigation program description; and, if so, provide a description of any such action or investigation, including all law enforcement or regulatory agencies involved, the date that any action or investigation was commenced, the current status of the action or investigation, a summary of the findings of wrongdoing made in connection with the action or investigation, and whether any final determinations have been issued.

* * * * *

(4) * * *

(iv) Whether the gateway provider or any affiliate is also foreign voice service provider;

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues;

(vi) Whether the gateway provider is:

(A) A gateway provider with a STIR/SHAKEN implementation obligation; or

(B) A gateway provider without a STIR/SHAKEN implementation obligation; and

(vii) The gateway provider's OCN, if it has one.

* * * * *

(f) *Certification by non-gateway intermediate providers in the Robocall Mitigation Database.* (1) A non-gateway intermediate provider shall certify that all of the calls that it carries or processes on its network are subject to a robocall mitigation program consistent with paragraph (c) of this section, that any prior certification has not been removed by Commission action and it has not been prohibited from filing in the Robocall Mitigation Database by the Commission, and to one of the following:

(i) It has fully implemented the STIR/SHAKEN authentication framework across its entire network and all calls it carries or processes are compliant with § 64.6302(b);

(ii) It has implemented the STIR/SHAKEN authentication framework on a portion of its network and calls it carries or processes on that portion of its network are compliant with § 64.6302(b); or

(iii) It has not implemented the STIR/SHAKEN authentication framework on any portion of its network for carrying or processing calls.

(2) A non-gateway intermediate provider shall include the following information in its certification made pursuant to paragraph (f)(1) of this section in English or with a certified English translation:

(i) Identification of the type of extension or extensions the non-gateway intermediate provider received under § 64.6304, if the non-gateway intermediate provider is not a foreign provider, and the basis for the extension or extensions, or an explanation of why it is unable to implement STIR/SHAKEN due to a lack of control over the network infrastructure necessary to implement STIR/SHAKEN;

(ii) The specific reasonable steps the non-gateway intermediate provider has taken to avoid carrying or processing illegal robocall traffic as part of its robocall mitigation program, including a description of any procedures in place to know its upstream providers and the analytics system(s) it uses to identify and block illegal traffic, including whether it uses any third-party analytics vendor(s) and the name of such vendor(s);

(iii) A statement of the non-gateway intermediate provider's commitment to respond fully and in a timely manner to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal

robocallers that use its service to carry or process calls; and

(iv) State whether, at any time in the prior two years, the filing entity (and/or any entity for which the filing entity shares common ownership, management, directors, or control) has been the subject of a formal Commission, law enforcement, or regulatory agency action or investigation with accompanying findings of actual or suspected wrongdoing due to the filing entity transmitting, encouraging, assisting, or otherwise facilitating illegal robocalls or spoofing, or a deficient Robocall Mitigation Database certification or mitigation program description; and, if so, provide a description of any such action or investigation, including all law enforcement or regulatory agencies involved, the date that any action or investigation was commenced, the current status of the action or investigation, a summary of the findings of wrongdoing made in connection with the action or investigation, and whether any final determinations have been issued.

(3) All certifications made pursuant to paragraphs (f)(1) and (2) of this section shall:

(i) Be filed in the appropriate portal on the Commission's website; and

(ii) Be signed by an officer in conformity with 47 CFR 1.16.

(4) A non-gateway intermediate provider filing a certification shall submit the following information in the appropriate portal on the Commission's website:

(i) The non-gateway intermediate provider's business name(s) and primary address;

(ii) Other business names in use by the non-gateway intermediate provider;

(iii) All business names previously used by the non-gateway intermediate provider;

(iv) Whether the non-gateway intermediate provider or any affiliate is also foreign voice service provider;

(v) The name, title, department, business address, telephone number, and email address of one person within the company responsible for addressing robocall mitigation-related issues;

(vi) Whether the non-gateway intermediate provider is:

(A) A non-gateway intermediate provider with a STIR/SHAKEN implementation obligation; or

(B) A non-gateway intermediate provider without a STIR/SHAKEN implementation obligation; and

(vii) The non-gateway intermediate service provider's OCN, if it has one.

(5) A non-gateway intermediate provider shall update its filings within 10 business days of any change to the information it must provide pursuant to this paragraph (f) subject to the conditions set forth in paragraphs (d)(5)(i) and (ii) of this section.

(g) * * *

(4) *Accepting traffic from non-gateway intermediate providers.* Intermediate providers and voice service providers shall accept calls directly from a non-gateway intermediate provider only if that non-gateway intermediate provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (f) of this section, showing that the non-gateway intermediate provider affirmatively submitted the filing, and that filing has not been de-listed pursuant to an enforcement action.

3. At 88 FR 43459, July 10, 2023 § 63.6305 was amended by revising paragraphs (a)(2) and (c)(2), effective Jan. 28, 2024.For the convenience of the user, the revised text is set forth as follows:

§ 64.6305 Robocall mitigation and certification.

(a) * * *

(2) Any robocall mitigation program implemented pursuant to paragraph (a)(1) of this section shall include reasonable steps to avoid originating illegal robocall traffic and shall include a commitment to respond within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls.

* * * * *

(c) * * *

(2) Any robocall mitigation program implemented pursuant to paragraph (c)(1) of this section shall include reasonable steps to avoid carrying or processing illegal robocall traffic and shall include a commitment to respond within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls.

4. At 88 FR 43459, July 10, 2023, § 63.6305 was amended revising paragraphs (d)(2)(ii) and (iii), (e)(2)(ii), and (f)(2)(iii), however these paragraphs are delayed indefinitely.For the convenience of the user, the revised text is set forth as follows:

§ 64.6305 Robocall mitigation and certification.

* * * * *

(d) * * *

(2) * * *

(ii) The specific reasonable steps the voice service provider has taken to avoid originating illegal robocall traffic as part of its

robocall mitigation program, including a description of how it complies with its obligation to know its customers pursuant to § 64.1200(n)(4), any procedures in place to know its upstream providers, and the analytics system(s) it uses to identify and block illegal traffic, including whether it uses any third-party analytics vendor(s) and the name(s) of such vendor(s);

(iii) A statement of the voice service provider's commitment to respond within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to originate calls; and

* * * * *

(e) * * *

(2) * * *

(ii) The specific reasonable steps the gateway provider has taken to avoid carrying or processing illegal robocall traffic as part of its robocall mitigation program, including a description of how it complies with its obligation to know its upstream providers pursuant to § 64.1200(n)(5), the analytics system(s) it uses to identify and block illegal traffic, and whether it uses any third-party analytics vendor(s) and the name(s) of such vendor(s);

* * * * *

(f) * * *

(2) * * *

(iii) A statement of the non-gateway intermediate provider's commitment to respond within 24 hours to all traceback requests from the Commission, law enforcement, and the industry traceback consortium, and to cooperate with such entities in investigating and stopping any illegal robocallers that use its service to carry or process calls; and

§ 64.6306 Exemption.

(a) *Exemption for IP networks.* A voice service provider may seek an exemption from the requirements of § 64.6301 by certifying on or before December 1, 2020, that, for those portions of its network served by technology that allows for the transmission of SIP calls, it:

(1) Has adopted the STIR/SHAKEN authentication framework for calls on the Internet Protocol networks of the voice service provider, by completing the network preparations necessary to deploy the STIR/SHAKEN protocols on its network including but not limited to participation in test beds and lab testing, or completion of commensurate network adjustments to enable the authentication and validation of calls on its network consistent with the STIR/SHAKEN framework;

(2) Has agreed voluntarily to participate with other voice service providers in the STIR/SHAKEN authentication framework, as demonstrated by completing formal registration (including payment) and testing with the STI Policy Administrator;

(3) Has begun to implement the STIR/SHAKEN authentication framework by completing the necessary network upgrades to at least one network element—*e.g.*, a single switch or session border controller—to enable the authentication and verification of caller identification information consistent with the STIR/SHAKEN standards; and

(4) Will be capable of fully implementing the STIR/SHAKEN authentication framework not later than June 30, 2021, which it may only determine if it reasonably foresees that it will have completed all necessary network upgrades to its network infrastructure to enable the authentication and verification of caller identification information for all SIP calls exchanged with STIR/SHAKEN-enabled partners by June 30, 2021.

(b) *Exemption for non-IP networks.* A voice service provider may seek an exemption from the requirement to upgrade its network to allow for the initiation, maintenance, and termination of SIP calls and fully implement the STIR/SHAKEN framework as required by § 64.6301 throughout its network by June 30, 2021, and from associated recordkeeping and reporting requirements, by certifying on or before December 1, 2020, that, for those portions of its network that do not allow for the transmission of SIP calls, it:

(1) Has taken reasonable measures to implement an effective call authentication framework by either:

(i) Upgrading its entire network to allow for the initiation, maintenance, and termination of SIP calls, and fully implementing the STIR/SHAKEN framework as required in § 64.6301 throughout its network; or

(ii) Maintaining and being ready to provide the Commission on request with documented proof that it is participating, either on its own or through

a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution; and

(2) Will be capable of fully implementing an effective call authentication framework not later than June 30, 2021, because it reasonably foresees that it will have completed all necessary network upgrades to its network infrastructure to enable the authentication and verification of caller identification information for all non-internet Protocol calls originating or terminating on its network as provided by a standardized caller identification authentication framework for non-internet Protocol networks by June 30, 2021.

(c) *Certification submission procedures.* All certifications that a voice service provider is eligible for exemption shall be:

(1) Filed in the Commission's Electronic Comment Filing System (ECFS) in WC Docket No. 20–68, Exemption from Caller ID Authentication Requirements, no later than December 1, 2020;

(2) Signed by an officer in conformity with 47 CFR 1.16; and

(3) Accompanied by detailed support as to the assertions in the certification.

(d) *Determination timing.* The Wireline Competition Bureau shall determine whether to grant or deny timely requests for exemption on or before December 30, 2020.

(e) *Implementation verification.* All voice service providers granted an exemption under paragraphs (a) and (b) of this section shall file an additional certification consistent with the requirements of paragraph (c) of this section on or before October 4, 2021 that attests to whether the voice service provider fully implemented the STIR/SHAKEN authentication framework because it completed all necessary network upgrades to its network infrastructure to enable the authentication and verification of caller identification information for all SIP calls exchanged with STIR/SHAKEN–enabled partners by June 30, 2021. The Wireline Competition Bureau, after issuing a Public Notice seeking comment on the certifications, will, not later than four months after the deadline for filing of the certifications, issue a Public Notice identifying which voice service providers achieved complete implementation of the STIR/SHAKEN authentication framework.

[85 FR 73396, Nov. 17, 2020, as amended at 86 FR 58040, Oct. 20, 2021]

§ 64.6307 Line item charges.

Providers of voice service are prohibited from adding any additional line item charges to consumer or small business customer subscribers for the effective call authentication technology required by §§ 64.6301 and 64.6303.

(a) For purposes of this section, ''consumer subscribers'' means residential mass-market subscribers.

(b) For purposes of this section, ''small business customer subscribers'' means subscribers that are business entities that meet the size standards established in 13 CFR part 121, subpart A.

[85 FR 73397, Nov. 17, 2020]

§ 64.6308 Review of Governance Authority Decision to Revoke an SPC Token.

(a) *Parties permitted to seek review of Governance Authority decision.* (1) Any voice service provider or intermediate provider aggrieved by a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token, must seek review from the Governance Authority and complete the appeals process established by the Governance Authority prior to seeking Commission review.

(2) Any voice service provider or intermediate provider aggrieved by an action to revoke its SPC token taken by the Governance Authority, after exhausting the appeals process provided by the Governance Authority, may then seek review from the Commission, as set forth in this section.

(b) *Filing deadlines.* (1) A voice service provider or intermediate provider requesting Commission review of a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token by the

Commission, shall file such a request electronically in the Electronic Comment Filing System (ECFS) in WC Docket No. 21–291, Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions within sixty (60) days from the date the Governance Authority upholds it token revocation decision.

(2) Parties shall adhere to the time periods for filing oppositions and replies set forth in § 1.45.

(c) *Filing requirements.* (1) A request for review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token by the Commission shall be filed in WC Docket No. 21–291, Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions, in the Electronic Comment Filing System (ECFS). The request for review shall be captioned ''In the matter of Request for Review by (name of party seeking review) of Decision of the Governance Authority to Revoke an SPC Token.''

(2) A request for review shall contain:

(i) A statement setting forth the voice service provider's or intermediate provider's asserted basis for appealing the Governance Authority's decision to revoke the SPC token;

(ii) A full statement of relevant, material facts with supporting affidavits and documentation, including any background information the voice service provider or intermediate provider deems useful to the Commission's review; and

(iii) The question presented for review, with reference, where appropriate, to any underlying Commission rule or Governance Authority policy.

(3) A copy of a request for review that is submitted to the Commission shall be served on the Governance Authority by the voice service provider requesting Commission review via *stiga@atis.org* or in accordance with any alternative delivery mechanism the Governance Authority may establish in its operating procedures.

(d) *Review by the Wireline Competition Bureau.* (1) Except in extraordinary circumstances, final action on a request for review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token should be expected no later than 180 days from the date the request for review is filed in the Electronic Comment Filing System (ECFS) pursuant to § 64.6308(b)(1). The Wireline Competition Bureau shall have the discretion to pause the 180-day review period in situations where actions outside the Wireline Competition Bureau's control are responsible for delaying review of a request for review.

(2) An affected party may seek review of a decision issued under delegated authority by the Wireline Competition Bureau pursuant to the rules set forth in § 1.115.

(e) *Standard of review.* The Wireline Competition Bureau shall conduct *de novo* review of Governance Authority decisions to revoke a voice service provider's or intermediate provider's SPC token.

(f) *Status during pendency of a request for review and a Governance Authority decision.* (1) A voice service provider or intermediate provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 after revocation of its SPC token by the Governance Authority until the thirty (30) day period to file a formal appeal with the Governance Authority Board expires, or during the pendency of any formal appeal to the Governance Authority Board.

(2) A voice service provider or intermediate provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 after the Governance Authority Board upholds the Governance Authority's SPC token revocation decision until the sixty (60) day period to file a request for review with the Commission expires.

(3) When a voice service provider or intermediate provider has sought timely Commission review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token under this section, the voice service provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 until and unless the Wireline Competition Bureau, pursuant to paragraph (d)(1) of this section, has upheld or otherwise decided

not to overturn the Governance Authority's decision.

(4) In accordance with §§1.102(b) and 1.106(n), the effective date of any action pursuant to paragraph (d) shall not be stayed absent order by the Wireline Competition Bureau or the Commission.

[86 FR 48520, Aug. 31, 2021]

APPENDIX A TO PART 64—TELECOMMUNICATIONS SERVICE PRIORITY (TSP) SYSTEM FOR NATIONAL SECURITY EMERGENCY PREPAREDNESS (NSEP)

1. PURPOSE AND AUTHORITY

a. This appendix establishes rules, policies, and procedures and outlines responsibilities for the National Security Emergency Preparedness (NSEP) Telecommunications Service Priority (TSP) System. The NSEP TSP System authorizes priority treatment to certain telecommunications services and internet Protocol-based services, including voice, data, and video services, for which provisioning or restoration priority levels are requested, assigned, and approved in accordance with this appendix.

b. This appendix is issued pursuant to sections 1, 4(i), 4(j), 4(n), 201–205, 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 308(a), 309(a), 309(j), 316, 332, 403, 615a–1, 615c, and 706 of the Communications Act of 1934, as amended, codified at 47 U.S.C. 151, 154(i)–(j), (n), 201–205, 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 308(a), 309(a), 309(j), 316, 332, 403, 615a–1, 615c, 606; and Executive Order 13618. These authorities grant to the Federal Communications Commission (FCC) the authority over the assignment and approval of priorities for provisioning and restoration of telecommunications services and internet Protocol-based services (NSEP services). Under section 706 of the Communications Act, this authority may be superseded, and the mandatory provisions of this section may be expanded to include non-common carrier telecommunications services, by the war emergency powers of the President of the United States.

c. This appendix establishes rules for provisioning and restoration of NSEP services both before and after invocation of the President's war emergency powers. The rules, regulations, and procedures outlined in this appendix must be applied on a day-to-day basis to all NSEP services that are eligible for TSP so that the priorities they establish can be implemented when the need arises.

2. DEFINITIONS

As used in this appendix:

a. Assignment means the designation of priority level(s) for a defined NSEP telecommunications service or internet Protocol-based service for a specified time period.

b. Audit means a quality assurance review in response to identified problems.

c. Government refers to the Federal government or any foreign, state, county, municipal or other local government agency or organization. Specific qualifications will be supplied whenever reference to a particular level of government is intended (*e.g.*, ''Federal government,'' ''state government''). ''Foreign government'' means any sovereign empire, kingdom, state, or independent political community, including foreign diplomatic and consular establishments and coalitions or associations of governments (*e.g.*, North Atlantic Treaty Organization (NATO), Southeast Asian Treaty Organization (SEATO), Organization of American States (OAS), and government agencies or organization (*e.g.*, Pan American Union, International Postal Union, and International Monetary Fund)).

d. Internet Protocol-based services refers to services and applications that feature digital communications capabilities and which generally use the internet Protocol.

e. Invocation Official refers to an individual who (1) understands how the requested service ties to the organization's NSEP mission; (2) is authorized to approve the expenditure of funds necessary for the requested service; and (3) has operational responsibilities for telecommunications procurement and/or management within the organization.

f. National Coordinating Center for Communications (NCC) refers to the joint telecommunications industry-Federal government operation that assists in the initiation, coordination, restoration, and reconstitution of NSEP telecommunications services or facilities.

g. National Security Emergency Preparedness (NSEP) services, or ''NSEP services,'' means telecommunications services or internet Protocol-based services which are used to maintain a state of readiness or to respond to and manage any event or crisis (local, national, or international), which causes or could cause injury or harm to the population, damage to or loss of property, or degrades or threatens the NSEP posture of the United States. These services fall into two specific categories, Emergency NSEP and Essential NSEP, and are assigned priority levels pursuant to section 8 of this appendix.

h. NSEP treatment refers to the provisioning of a specific NSEP service before others based on the provisioning priority level assigned by DHS.

i. Priority action means assignment, revision, revocation, or revalidation by DHS of a priority level associated with an NSEP service.

j. Priority level means the level that may be assigned to an NSEP service specifying the order in which provisioning or restoration of the service is to occur relative to other NSEP and/or non-NSEP telecommunications services. Priority levels authorized by this appendix are designated highest to lowest: E, 1, 2, 3, 4, and 5, for provisioning and 1, 2, 3, 4, and 5, for restoration.

k. Priority level assignment means the priority level(s) designated for the provisioning and/or restoration of a specific NSEP service under section 8 of this appendix.

l. Private NSEP services include non-common carrier telecommunications services.

m. Promptly means without delay.

n. Provisioning means the act of supplying service to a user, including all associated transmission, wiring, and equipment. As used herein, ''provisioning'' and ''initiation'' are synonymous and include altering the state of an existing priority service or capability.

o. Public switched NSEP services include those NSEP services using public switched networks.

p. Reconciliation means the comparison of NSEP service information and the resolution of identified discrepancies.

q. Restoration means the repair or returning to service of one or more services that have experienced a service outage or are unusable for any reason, including a damaged or impaired facility. Such repair or returning to service may be done by patching, rerouting, substitution of component parts or pathways, and other means, as determined necessary by a service provider.

r. Revalidation means the re-justification by a service user of a priority level assignment. This may result in extension by DHS of the expiration date associated with the priority level assignment.

s. Revision means the change of priority level assignment for an NSEP service. This includes any extension of an existing priority level assignment to an expanded NSEP service.

t. Revocation means the elimination of a priority level assignment when it is no longer valid. All priority level assignments for an NSEP service are revoked upon service termination.

u. Service identification refers to the information uniquely identifying an NSEP service to the service provider and/or service user.

v. Service user refers to any individual or organization (including a service provider) supported by an NSEP service for which a priority level has been requested or assigned pursuant to section 7 or 8 of this appendix.

w. Service provider refers to a provider of telecommunications services or internet Protocol-based services. The term includes resale carriers, prime contractors, subcontractors, and interconnecting carriers.

x. Spare circuits or services refers to those not being used or contracted for by any customer.

y. Sponsoring Federal organization refers to a Federal agency that determines eligibility for participation in the TSP Program for non-Federal (state, local, tribal, and foreign governments and private sector) organizations. A sponsor can be any Federal agency with which a non-Federal user may be affiliated. The sponsoring Federal agency ensures the service supports an NSEP function and merits TSP participation.

z. Telecommunications services means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

3. SCOPE

a. Service providers.

(1) This appendix applies to the provision and restoration of certain telecommunications services or internet Protocol-based services for which priority levels are requested, assigned, and approved pursuant to section 8 of this appendix.

(2) Common carriers and providers of any services that are interconnected to common carrier services must offer prioritized provisioning and restoration of circuit-switched voice communication services. Any service provider may, on a voluntary basis, offer prioritized provisioning and restoration of data, video, and IP-based voice services.

b. Eligible services. The NSEP TSP System and procedures established by this appendix authorize priority treatment to the following domestic services (including portions of U.S. international services offered by U.S. service providers) for which provisioning or restoration priority levels are requested, assigned, and approved in accordance with this appendix:

(1) Common carrier services which are:

(a) Interstate or foreign telecommunications services,

(b) Intrastate telecommunications services inseparable from interstate or foreign telecommunications services, and intrastate telecommunications services to which priority levels are assigned pursuant to section 8 of this appendix.

(2) Services which are provided by government and/or non-common carriers and are interconnected to common carrier services assigned a priority level pursuant to section 8 of this appendix.

c. Control services and orderwires. The NSEP TSP System and procedures established by this appendix are not applicable to authorize priority treatment to control services or orderwires owned by a service provider and needed for provisioning, restoration, or maintenance of other services owned by that service provider, *e.g.,* the signaling

path(s) or control plane services used by a service provider's technical staff to control, coordinate, and direct network operations. Such control services and orderwires shall have priority provisioning and restoration over all other services (including NSEP services) and shall be exempt from preemption. However, the NSEP TSP System and procedures established by this appendix are applicable to control services or orderwires leased by a service provider.

d. Other services. The NSEP TSP System may apply, at the discretion of and upon special arrangements by service users involved, to authorize priority treatment to the following services:

(1) Government or non-common carrier services which are not connected to common carrier provided services assigned a priority level pursuant to section 8 of this appendix.

(2) Portions of U.S. international services which are provided by foreign correspondents. (U.S. service providers are encouraged to ensure that relevant operating arrangements are consistent to the maximum extent practicable with the NSEP TSP System. If such arrangements do not exist, U.S. service providers should handle service provisioning and/or restoration in accordance with any system acceptable to their foreign correspondents which comes closest to meeting the procedures established in this appendix.)

4. POLICY

The NSEP TSP System is the regulatory, administrative, and operational system authorizing and providing for priority treatment, *i.e.,* provisioning and restoration, of NSEP services. As such, it establishes the framework for service providers to provision, restore, or otherwise act on a priority basis to ensure effective NSEP services. The NSEP TSP System allows the assignment of priority levels to any NSEP service across three time periods, or stress conditions: Peacetime/Crisis/Mobilizations, Attack/War, and Post-Attack/Recovery. Although priority levels normally will be assigned by DHS and retained by service providers only for the current time period, they may be preassigned for the other two time periods at the request of service users who are able to identify and justify in advance, their wartime or post-attack NSEP requirements. Absent such preassigned priority levels for the Attack/War and Post-Attack/Recovery periods, priority level assignments for the Peacetime/Crisis/Mobilization period will remain in effect. At all times, priority level assignments will be subject to revision by the FCC or (on an interim basis) DHS, based upon changing NSEP needs. No other system of service priorities which conflicts with the NSEP TSP System is authorized by this appendix.

5. RESPONSIBILITIES

a. The FCC:

(1) Provides regulatory oversight of the NSEP TSP System.

(2) Enforces NSEP TSP System rules and regulations which are contained in this appendix.

(3) Performs such functions as are required by law, including:

(a) with respect to all entities licensed or regulated by the FCC: the extension of or change in network facilities; the discontinuance, reduction, or impairment of interstate services; the control of common carrier rates, charges, practices, and classifications; the construction, authorization, activation, deactivation, or closing of radio stations, services, and facilities; the assignment of radio frequencies to licensees; the investigation of violations of FCC rules; and the assessment of communications service provider emergency needs and resources; and

(b) supports the continuous operation and restoration of critical communications systems and services by assisting the Secretary of Homeland Security with infrastructure damage assessment and restoration, and by providing the Secretary of Homeland Security with information collected by the FCC on communications infrastructure, service outages, and restoration, as appropriate.

(4) Functions (on a discretionary basis) as a sponsoring Federal organization. (See section 5.b below.)

b. Sponsoring Federal organizations:

(1) Review and decide whether to sponsor foreign, state, and local government and private industry (including service providers) requests for priority actions. Federal organizations forward sponsored requests with recommendations for disposition to DHS. Such recommendations are based on the categories and criteria in section 10 of this appendix.

(2) Forward notification of priority actions or denials of requests for priority actions from DHS to the requesting foreign, state, and local government and private industry entities.

(3) Cooperate with DHS during reconciliation, revalidation, and audits.

c. Service users:

(1) Identify services requiring priority level assignments and request and justify priority level assignments in accordance with this appendix.

(2) Request and justify revalidation of all priority level assignments at least every three years.

(3) For services assigned priority levels, ensure (through contractual means or otherwise) availability of customer premises equipment and wiring necessary for end-to-end service operation by the service due date, and continued operation; and, for such services in the Emergency NSEP category,

by the time that providers are prepared to provide the services. Additionally, designate the organization responsible for the service on an end-to-end basis.

(4) Prepare to accept services assigned priority levels by the service due dates or, for services in the Emergency NSEP category, when they are available.

(5) Pay providers any authorized costs associated with services that are assigned priority levels.

(6) Report to providers any failed or unusable services that are assigned priority levels.

(7) Designate a 24-hour point-of-contact for matters concerning each request for priority action and apprise DHS thereof.

(8) Upon termination of services that are assigned priority levels, or circumstances warranting revisions in priority level assignment (*e.g.*, expansion of service), request and justify revocation or revision.

(9) When NSEP treatment is invoked under section 8(c) of this appendix, within 90 days following provisioning of the service involved, forward to the Priority Services Program Office complete information identifying the time and event associated with the invocation and regarding whether the NSEP service requirement was adequately handled and whether any additional charges were incurred.

(10) Cooperate with DHS during reconciliation, revalidation, and audits.

(11) Comply with DHS policies and procedures that are consistent with this appendix.

d. Non-federal service users, in addition to responsibilities described above in section 5.c, obtain a sponsoring Federal organization for all requests for priority actions. If unable to find a sponsoring Federal organization, a non-federal service user may submit its request, which must include documentation of attempts made to obtain a sponsor and reasons given by the sponsor for its refusal, directly to DHS.

e. Service providers:

(1) When NSEP treatment is invoked by service users, provision NSEP services before non-NSEP services, based on priority level assignments made by DHS. Service providers must:

(a) Promptly provide NSEP services. When limited resources constrain response capability, providers will address conflicts for resources by:

(i) Providing NSEP services in order of provisioning priority level assignment, from highest (''E'') to lowest (''5'');

(ii) Providing Emergency NSEP services (*i.e.*, those assigned provisioning priority level ''E'') in order of receipt of the service requests;

(iii) Providing Essential NSEP services that have the same provisioning priority level in order of service due dates; and

(iv) Referring any conflicts which cannot be resolved (to the mutual satisfaction of service providers and users) to DHS for resolution.

(b) Comply with NSEP service requests by:

(i) Promptly providing Emergency NSEP services, dispatching outside normal business hours when necessary;

(ii) Promptly meeting requested service dates for Essential NSEP services, negotiating a mutually (authorized user and provider) acceptable service due date when the requested service due date cannot be met; and

(2) Restore NSEP services which suffer outage or are reported as unusable or otherwise in need of restoration, before non-NSEP services, based on restoration priority level assignments. (Note: For broadband or multiple service facilities, restoration is permitted even though it might result in restoration of services assigned to lower priority levels along with, or sometimes ahead of, some higher priority level services.) Restoration will require service providers to restore NSEP services in order of restoration priority level assignment'') by:

(a) Promptly restoring NSEP services by dispatching outside normal business hours to restore services assigned Priority Level 1, 2, or 3, when necessary, and services assigned Priority Level 4 or 5 when the next business day is more than 24 hours away;

(b) Restoring NSEP services assigned the same restoration priority level based upon which service can be first restored. (However, restoration actions in progress should not normally be interrupted to restore another NSEP service assigned the same restoration priority level);

(c) Patching and/or rerouting NSEP services assigned restoration priority levels when use of patching and/or rerouting will hasten restoration; and

(d) Referring any conflicts which cannot be resolved (to the mutual satisfaction of service providers and users) to DHS for resolution.

(3) Respond to provisioning requests of authorized users and/or other service providers, and to restoration priority level assignments when an NSEP service suffers an outage or is reported as unusable, by:

(a) Ensuring that provider personnel understand their responsibilities to handle NSEP provisioning requests and to restore NSEP service;

(b) Providing a 24-hour point-of-contact for receiving provisioning requests for Emergency NSEP services and reports of NSEP service outages or unusability; and

(c) Seeking verification from an authorized entity if legitimacy of a priority level assignment or provisioning request for an NSEP service is in doubt. However, processing of Emergency NSEP service requests will not be delayed for verification purposes.

(4) Cooperate with other service providers involved in provisioning or restoring a portion of an NSEP service by honoring provisioning or restoration priority level assignments, or requests for assistance to provision or restore NSEP services.

(5) All service providers, including resale carriers, are required to ensure that service providers supplying underlying facilities are provided information necessary to implement priority treatment of facilities that support NSEP services.

(6) Preempt, when necessary, existing services to provide an NSEP service as authorized in section 6 of this appendix.

(7) Assist in ensuring that priority level assignments of NSEP services are accurately identified ''end-to-end'' by:

(a) Seeking verification from an authorized Federal government entity if the legitimacy of the restoration priority level assignment is in doubt;

(b) Providing to subcontractors and/or interconnecting carriers the restoration priority level assigned to a service;

(c) Supplying, to DHS, when acting as a prime contractor to a service user, confirmation information regarding NSEP service completion for that portion of the service they have contracted to supply;

(d) Supplying, to DHS, NSEP service information for the purpose of reconciliation;

(e) Cooperating with DHS during reconciliation; and

(f) Periodically initiating reconciliation with their subcontractors and arranging for subsequent subcontractors to cooperate in the reconciliation process.

(8) Receive compensation for costs authorized through tariffs or contracts by:

(a) Provisions contained in properly filed state or Federal tariffs; or

(b) Provisions of properly negotiated contracts where the carrier is not required to file tariffs.

(9) Provision or restore only the portions of services for which they have agreed to be responsible (*i.e.*, have contracted to supply), unless the President's war emergency powers under section 706 of the Communications Act are in effect.

(10) Cooperate with DHS during audits.

(11) Comply with DHS policies or procedures that are consistent with this appendix.

(12) Ensure that at all times a reasonable number of public switched network services are made available for public use.

(13) Do not disclose information concerning NSEP services they provide to those not having a need-to-know or that might use the information for competitive advantage.

(14) Take all reasonable efforts to secure the confidentiality of TSP information from unauthorized disclosure, including by storing such information in a location and with security safeguards that are reasonably designed to protect against lawful or unlawful disclosure to company employees or service providers without a legitimate need for this information, or other entities to which the disclosure of this information would pose a threat to the national security of the United States. Service providers will immediately notify the FCC and DHS of any attempt to compel the disclosure of this information and will coordinate with the FCC and DHS prior to such disclosure. In emergency situations where prior notice is impracticable, service providers will notify the FCC and DHS as soon as possible, but no later than 48 hours after such disclosure, and should accompany such notice with an explanation why prior notice was not practicable.

(15) Comply with all relevant Commission rules regarding TSP.

6. PREEMPTION OF EXISTING SERVICES

When necessary to provision or restore NSEP services, service providers may preempt services they provide as specified below. ''Service user'' as used in this section means any user of a telecommunications service or internet Protocol-based service, including both NSEP and non-NSEP services. Prior consent by a preempted user is not required.

a. Existing services may be preempted to provision NSEP services assigned Priority Level E or restore NSEP services assigned Priority Level 1 through 5 according to the following sequence:

(1) Non-NSEP services: If suitable spare services are not available, non-NSEP services will be preempted. After ensuring a sufficient number of public switched services are available for public use, based on the service provider's best judgment, such services may be used to satisfy a requirement for provisioning or restoring NSEP services.

(2) NSEP services: If no suitable spare services or non-NSEP services are available, existing NSEP services may be preempted to provision or restore NSEP services with higher priority level assignments. When this is necessary, NSEP services will be selected for preemption in the inverse order of priority level assignment.

(3) Service providers who are preempting services will ensure their best effort to notify the service user of the preempted service and state the reason for and estimated duration of the preemption.

b. Service providers may, based on their best judgment, determine the sequence in which existing services may be preempted to provision NSEP services assigned Priority Level 1 through 5. Preemption is not subject to the consent of the user whose service will be preempted.

7. REQUESTS FOR PRIORITY ASSIGNMENTS

All service users are required to submit requests for priority assignments to DHS in

the format and following the procedures that DHS prescribes.

8. ASSIGNMENT, APPROVAL, USE, AND INVOCATION OF PRIORITY LEVELS

a. Assignment and approval of priority levels. Priority level assignments will be based upon the categories and criteria specified in section 10 of this appendix. After invocation of the President's war emergency powers, these requirements may be superseded by other procedures issued by DHS.

b. Use of priority level assignments.

(1) All provisioning and restoration priority level assignments for services in the Emergency NSEP category will be included in initial service orders to providers. Provisioning priority level assignments for Essential NSEP services, however, will not usually be included in initial service orders to providers. NSEP treatment for Essential NSEP services will be invoked and provisioning priority level assignments will be conveyed to service providers only if the providers cannot meet needed service dates through the normal provisioning process.

(2) Any revision or revocation of either provisioning or restoration priority level assignments will also be transmitted to providers.

(3) Service providers shall accept priority levels and/or revisions only after assignment by DHS.

NOTE: Service providers acting as prime contractors will accept assigned NSEP priority levels only when they are accompanied by the DHS designated service identification (*i.e.*, TSP Authorization Code). However, service providers are authorized to accept priority levels and/or revisions from users and contracting activities before assignment by DHS when service providers, users, and contracting activities are unable to communicate with either the FCC or DHS. Processing of Emergency NSEP service requests will not be delayed for verification purposes.

c. Invocation of NSEP treatment. To invoke NSEP treatment for the priority provisioning of an NSEP service, an authorized federal employee within, or acting on behalf of, the service user's organization must make a declaration to concerned service provider(s) and DHS that NSEP treatment is being invoked. An authorized invocation official is one who (1) understands how the requested service ties to the organization's NSEP mission; (2) is authorized to approve the expenditure of funds necessary for the requested service; and (3) has operational responsibilities for telecommunications procurement and/or management within the organization.

9. APPEAL

Service users or sponsoring Federal organizations may appeal any priority level assignment, denial, revision, revocation, approval, or disapproval to DHS within 30 days of notification to the service user. The appellant must use the form or format required by DHS and must serve the FCC with a copy of its appeal. Service users and sponsoring Federal organizations may only appeal directly to the FCC after DHS action on the appeal. Such FCC appeal must be filed within 30 days of notification of DHS's decision on appeal. Additionally, DHS may appeal any FCC revisions, approvals, or disapprovals to the FCC. All appeals to the FCC must be submitted using the form or format required. The party filing its appeal with the FCC must include factual details supporting its claim and must serve a copy on DHS and any other party directly involved. Such party may file a response within 20 days, and replies may be filed within 10 days thereafter. The Commission will not issue public notices of such submissions. The Commission will provide notice of its decision to the parties of record. Any appeals to DHS that include a claim of new information that has not been presented before for consideration may be submitted at any time.

10. CATEGORIES, CRITERIA, AND PRIORITY LEVELS

a. General. NSEP TSP System categories and criteria, and permissible priority level assignments, are defined and explained below.

(1) The Essential NSEP category has four subcategories: National Security Leadership; National Security Posture and U.S. Population Attack Warning; Public Health, Safety, and Maintenance of Law and Order; and Public Welfare and Maintenance of National Economic Posture. Each subcategory has its own criteria. Criteria are also shown for the Emergency NSEP category, which has no sub-categories.

(2) Priority Levels 1, 2, 3, 4, and 5 may be assigned for provisioning and/or restoration of Essential NSEP services. However, for Emergency NSEP services, Priority Level E is assigned for provisioning, and Priority Levels 1, 2, 3, 4, and 5 may be assigned for restoration of Emergency NSEP services.

(3) The NSEP TSP System allows the assignment of priority levels to any NSEP service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. It is expected that priority levels may be revised within the three time periods by surviving authorized resource managers within DHS based upon specific facts and circumstances.

(4) Service users may, for their own internal use, assign sub-priorities to their services assigned priority levels. Receipt of and response to any such sub-priorities is optional for service providers.

(5) The following paragraphs provide a detailed explanation of the categories, subcategories, criteria, and priority level assignments, beginning with the Emergency NSEP category.

b. Emergency NSEP. Services in the Emergency NSEP category are those new services so critical as to be required to be provisioned at the earliest possible time, without regard to the costs of obtaining them.

(1) Criteria. To qualify under the Emergency NSEP category, the service must meet criteria directly supporting or resulting from at least one of the following NSEP functions:

(a) Federal government activity responding to a Presidentially declared disaster or emergency as defined in the Disaster Relief Act (42 U.S.C. 5122).

(b) State or local government activity responding to a Presidentially declared disaster or emergency.

(c) Response to a state of crisis declared by the National Command Authorities (*e.g.*, exercise of Presidential war emergency powers under section 706 of the Communications Act.)

(d) Efforts to protect endangered U.S. personnel or property.

(e) Response to an enemy or terrorist action, civil disturbance, natural disaster, or any other unpredictable occurrence that has damaged facilities whose uninterrupted operation is critical to NSEP or the management of other ongoing crises.

(f) Certification by the head or director of a Federal agency, commander of a unified/specified command, chief of a military service, or commander of a major military command, that the service is so critical to protection of life and property or to NSEP that it must be provided immediately.

(g) A request from an official authorized pursuant to the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 *et seq.* and 18 U.S.C. 2511, 2518, 2519).

(2) Priority Level Assignment.

(a) Services qualifying under the Emergency NSEP category are assigned Priority Level E for provisioning.

(b) After 30 days, assignments of Priority Level E for Emergency NSEP services are automatically revoked unless extended for another 30-day period. A notice of any such revocation will be sent to service providers.

(c) For restoration, Emergency NSEP services may be assigned priority levels under the provisions applicable to Essential NSEP services (see section 10(c)). Emergency NSEP services not otherwise qualifying for restoration priority level assignment as Essential NSEP may be assigned Priority Level 5 for a 30-day period. Such 30-day restoration priority level assignment will be revoked automatically unless extended for another 30-day period. A notice of any such revocation will be sent to service providers.

c. Essential NSEP. Services in the Essential NSEP category are those required to be provisioned by due dates specified by service users, or restored promptly, normally without regard to associated overtime or expediting costs. They may be assigned Priority Level 1, 2, 3, 4, or 5 for both provisioning and restoration, depending upon the nature and urgency of the supported function, the impact of lack of service or of service interruption upon the supported function, and, for priority access to public switched services, the user's level of responsibility. Priority level assignments will be valid for no more than three years unless revalidated. To be categorized as Essential NSEP, a service must qualify under one of the four following subcategories: National Security Leadership; National Security Posture and U.S. Population Attack Warning; Public Health, Safety and Maintenance of Law and Order; or Public Welfare and Maintenance of National Economic Posture. (Note: Under emergency circumstances, Essential NSEP services may be recategorized as Emergency NSEP and assigned Priority Level E for provisioning.)

(1) National security leadership. This subcategory is strictly limited to only those NSEP services essential to national survival if nuclear attack threatens or occurs, and critical orderwire and control services necessary to ensure the rapid and efficient provisioning or restoration of other NSEP services. Services in this subcategory are those for which a service interruption of even a few minutes would have serious adverse impact upon the supported NSEP function.

(a) Criteria. To qualify under this subcategory, a service must be at least one of the following:

(i) Critical orderwire, or control services, supporting other NSEP functions.

(ii) Presidential communications service critical to continuity of government and national leadership during crisis situations.

(iii) National command authority communications service for military command and control critical to national survival.

(iv) Intelligence communications service critical to warning of potentially catastrophic attack.

(v) Communications service supporting the conduct of diplomatic negotiations critical to arresting or limiting hostilities.

(b) Priority level assignment. Services under this subcategory will normally be assigned Priority Level 1 for provisioning and restoration during the Peace/Crisis/Mobilization time period.

(2) National security posture and U.S. population attack warning. This subcategory covers additional NSEP services that are essential to maintaining an optimum defense, diplomatic, or continuity-of-government postures before, during, and after crises situations. Such situations are those ranging from national emergencies to international

crises, including nuclear attack. Services in this subcategory are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

(a) Criteria. To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Threat assessment and attack warning.

(ii) Conduct of diplomacy.

(iii) Collection, processing, and dissemination of intelligence.

(iv) Command and control of military forces.

(v) Military mobilization.

(vi) Continuity of Federal government before, during, and after crises situations.

(vii) Continuity of state and local government functions supporting the Federal government during and after national emergencies.

(viii) Recovery of critical national functions after crises situations.

(ix) National space operations.

(b) Priority level assignment. Services under this subcategory will normally be assigned Priority Level 2, 3, 4, or 5 for provisioning and restoration during Peacetime/Crisis/Mobilization.

(3) Public health, safety, and maintenance of law and order. This subcategory covers NSEP services necessary for giving civil alert to the U.S. population and maintaining law and order and the health and safety of the U.S. population in times of any national, regional, or serious local emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP functions.

(a) Criteria. To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Population warning (other than attack warning).

(ii) Law enforcement.

(iii) Continuity of critical state and local government functions (other than support of the Federal government during and after national emergencies).

(vi) Hospitals and distributions of medical supplies.

(v) Critical logistic functions and public utility services.

(vi) Civil air traffic control.

(vii) Military assistance to civil authorities.

(viii) Defense and protection of critical industrial facilities.

(ix) Critical weather services.

(x) Transportation to accomplish the foregoing NSEP functions.

(b) Priority level assignment. Service under this subcategory will normally be assigned Priority Levels 3, 4, or 5 for provisioning and restoration during Peacetime/Crisis/Mobilization.

(4) Public welfare and maintenance of national economic posture. This subcategory covers NSEP services necessary for maintaining the public welfare and national economic posture during any national or regional emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

(a) Criteria. To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Distribution of food and other essential supplies.

(ii) Maintenance of national monetary, credit, and financial systems.

(iii) Maintenance of price, wage, rent, and salary stabilization, and consumer rationing programs.

(iv) Control of production and distribution of strategic materials and energy supplies.

(v) Prevention and control of environmental hazards or damage.

(vi) Transportation to accomplish the foregoing NSEP functions.

(b) Priority level assignment. Services under this subcategory will normally be assigned Priority Levels 4 or 5 for provisioning and restoration during Peacetime/Crisis/Mobilization.

[87 FR 39784, July 5, 2022]

Appendix B to Part 64—Wireless Priority Service (WPS) for National Security and Emergency Preparedness (NSEP)

1. Purpose and Authority

a. This appendix establishes rules, policies, and procedures and outlines responsibilities for the Wireless Priority Service (WPS), previously called Priority Access Service (PAS), to support the needs of National Security Emergency Preparedness (NSEP) personnel. WPS authorizes priority treatment to certain domestic telecommunications services and internet Protocol-based services (NSEP services) for which priority levels are requested, assigned, and approved in accordance with this appendix.

b. This appendix is issued pursuant to sections 1, 4(i), 4(j), 4(n), 201–205, 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 308(a), 309(a), 309(j), 316, 332, 403, 615a–1, 615c, and 706 of the Communications Act of 1934, as amended, codified at 47 U.S.C. 151, 154(i)–(j), (n), 201–205, 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 308(a), 309(a), 309(j), 316, 332, 403, 615a–1, 615c, 606; and Executive Order 13618. Under section 706 of the Communications Act, this authority may be superseded by the war emergency powers of the President of the United States.

2. DEFINITIONS

As used in this appendix:

a. Authorizing agent refers to a Federal or State entity that authenticates, evaluates, and makes recommendations to DHS regarding the assignment of priority levels.

b. Service provider (or wireless service provider) refers to a provider of a wireless communications service or internet Protocol-based service, including commercial or private mobile service. The term includes agents of the licensed provider and resellers of wireless service.

c. Service user means an individual or organization to whom or which a priority access assignment has been made.

d. The following terms have the same meaning as in Appendix A to part 64, as amended:

(1) Assignment;
(2) Government;
(3) internet Protocol-based services;
(4) National Coordinating Center for Communications (NCC);
(5) National Security Emergency Preparedness (NSEP) services (excluding the last sentence);
(6) Reconciliation;
(7) Revalidation;
(8) Revision;
(9) Revocation.

3. SCOPE

a. Applicability. This appendix applies to the provision of WPS by wireless service providers to users who qualify under the provisions of section 6 of this appendix.

b. Eligible services. Wireless service providers may, on a voluntary basis, give eligible users priority access to, and priority use of, all secure and non-secure voice, data, and video services available over their networks. Providers that elect to offer these services must comply with all provisions of this appendix.

4. POLICY

WPS provides the means for NSEP users to obtain priority wireless access to available radio channels when necessary to initiate emergency communications. It does not preempt public safety emergency (911) calls, but it may preempt or degrade other in-progress voice calls. NSEP users are authorized to use priority signaling to ensure networks can detect WPS handset network registration and service invocation. WPS is used during situations when network congestion is blocking NSEP call attempts. It is available to authorized NSEP users at all times in markets where the service provider has voluntarily elected to provide such service. Priority Levels 1 through 5 are reserved for qualified and authorized NSEP users, and those users are provided access to radio channels before any other users.

5. RESPONSIBILITIES

a. The FCC:

(1) Provides regulatory oversight of WPS.

(2) Enforces WPS rules and regulations, which are contained in this appendix.

(3) Acts as final authority for approval, revision, or disapproval of priority assignments by DHS and adjudicates disputes regarding priority assignments and denials of such requests by DHS, until superseded by the President's war emergency powers under Section 706 of the Communications Act.

(4) Performs such functions as are required by law, including:

(a) with respect to all entities licensed or regulated by the FCC: the extension of or change in network facilities; the discontinuance, reduction, or impairment of interstate services; the control of common carrier rates, charges, practices, and classifications; the construction, authorization, activation, deactivation, or closing of radio stations, services, and facilities; the assignment of radio frequencies to licensees; the investigation of violations of FCC rules; and the assessment of communications service provider emergency needs and resources; and

(b) supports the continuous operation and restoration of critical communications systems and services by assisting the Secretary of Homeland Security with infrastructure damage assessment and restoration, and by providing the Secretary of Homeland Security with information collected by the FCC on communications infrastructure, service outages, and restoration, as appropriate.

b. Authorizing agents:

(1) Identify themselves as authorizing agents and their respective communities of interest to DHS. State authorizing agents provide a central point of contact to receive priority requests from users within their state. Federal authorizing agents provide a central point of contact to receive priority requests from Federal users or Federally sponsored entities.

(2) Authenticate, evaluate, and make recommendations to DHS to approve priority level assignment requests using the priorities and criteria specified in section 6 of this appendix. When appropriate, authorizing agents recommend approval or denial of requests for WPS.

(3) Ensure that documentation is complete and accurate before forwarding it to DHS.

(4) Serve as a conduit for forwarding WPS information from DHS to service users and vice versa. Such information includes WPS requests and assignments, reconciliation and revalidation notifications, and other relevant information.

(5) Participate in reconciliation and revalidation of WPS information at the request of DHS.

(6) Disclose content of the WPS database only to those having a need-to-know.

c. Service users:

(1) Determine the need for and request WPS assignments in accordance with the processes and procedures established by DHS.

(2) Initiate WPS requests through the appropriate authorizing agent. DHS approves or denies WPS requests and may direct service providers to remove WPS if appropriate. (Note: state and local government and private users apply for WPS through their designated state government authorizing agent. Federal users apply for WPS through their employing agency. State and local users in states where there has been no designation are sponsored by the Federal agency concerned with the emergency function as set forth in Executive Order 12656. If no authorizing agent is determined using these criteria, DHS serves as the authorizing agent.)

(3) Submit all correspondence regarding WPS to the authorizing agent.

(4) Participate in reconciliation and revalidation of WPS information at the request of the authorizing agent or DHS.

(5) Request discontinuance of WPS when the NSEP qualifying criteria used to obtain WPS is no longer applicable.

(6) Pay service providers as billed for WPS.

d. Service providers:

(1) Provide WPS only upon receipt of an authorization from DHS and remove WPS for specific users at the direction of DHS.

(2) Ensure that WPS Priority Level 1 exceeds all other priority services offered by WPS providers.

(3) Designate a point of contact to coordinate with DHS regarding WPS.

(4) Participate in reconciliation and revalidation of WPS information at the request of DHS.

(5) As technically and economically feasible, provide roaming service users the same grade of WPS provided to local service users.

(6) Disclose information regarding WPS users only to those having a need-to-know or who will not use the information for economic advantage.

(7) Ensure that at all times a reasonable amount of wireless spectrum is made available for public use.

(8) Notify DHS and the service user if WPS is to be discontinued as a service.

(9) Comply with all relevant Commission rules regarding WPS.

e. An appropriate body identified by DHS will identify and review any systemic problems associated with the WPS system and recommend actions to correct them or prevent their recurrence.

6. WPS Priority Levels and Qualifying Criteria

a. The following WPS priority levels and qualifying criteria apply equally to all users and will be used as a basis for all WPS assignments. There are five levels of NSEP priorities, with Priority Level 1being the highest. The five priority levels are:

(1) Executive Leadership and Policy Makers.

Users who qualify for the Executive Leadership and Policy Makers category will be assigned Priority Level 1. A limited number of technicians who are essential to restoring wireless networks shall also receive this highest priority treatment. Users assigned to Priority Level 1 receive the highest priority in relation to all other priority services offered by WPS providers. Examples of users who are eligible for Priority Level 1 include:

(i) The President of the United States, the Secretary of Defense, selected military leaders, and the staff who support these officials;

(ii) State governors, lieutenant governors, cabinet-level officials responsible for public safety and health, and the staff who support these officials; and

(iii) Mayors, county commissioners, and the staff who support these officials.

(2) Disaster Response/Military Command and Control.

Users who qualify for the Disaster Response/Military Command and Control category will be assigned Priority Level 2. This priority level includes individuals who manage the initial response to an emergency at the Federal, state, local, and regional levels. Personnel selected for this priority level are responsible for ensuring the viability or reconstruction of the basic infrastructure in an emergency area. In addition, personnel essential to continuity of government and national security functions (such as the conduct of international affairs and intelligence activities) are also included in this priority level. Examples of users who are eligible for Priority Level 2 include personnel from the following categories:

(i) Federal emergency operations center coordinators, *e.g.*, Chief, Public Safety and Homeland Security Bureau (FCC); Manager, National Coordinating Center for Communications; National Interagency Fire Center, Federal Coordinating Officer, Director of Military Support;

(ii) State emergency services directors, National Guard leadership, Federal and state damage assessment team leaders;

(iii) Federal, state and local personnel with continuity of government responsibilities;

(iv) Incident command center managers, local emergency managers, other state and local elected public safety officials; and

(v) Federal personnel with intelligence and diplomatic responsibilities.

(3) Public Health, Safety and Law Enforcement Command.

Users who qualify for the Public Health, Safety, and Law Enforcement Command category will be assigned Priority Level 3. This priority level includes individuals who conduct operations critical to life, property, and maintenance of law and order immediately

following an emergency event. Examples of users who are eligible for Priority Level 3 include personnel from the following categories:

(i) Federal law enforcement;

(ii) State police;

(iii) Local fire and law enforcement;

(iv) Emergency medical services;

(v) Search and rescue;

(vi) Emergency communications;

(vii) Critical infrastructure protection; and

(viii) Hospital personnel.

(4) Public Services/Utilities and Public Welfare.

Users who qualify for the Public Services/Utilities and Public Welfare category will be assigned Priority Level 4. This priority level includes individuals who manage public works and utility infrastructure damage assessment and restoration efforts and transportation to accomplish emergency response activities. Examples of users who are eligible for Priority Level 4 include personnel from the following categories:

(i) Army Corps of Engineers;

(ii) Power, water, and sewage;

(iii) Communications;

(iv) Transportation; and

(v) Financial services.

(5) Disaster Recovery.

Users who qualify for the Disaster Recovery category will be assigned Priority Level 5. This priority level includes individuals who manage a variety of recovery operations after the initial response has been accomplished. These functions may include managing medical resources such as supplies, personnel, or patients in medical facilities. Other activities such as coordination to establish and stock shelters, to obtain detailed damage assessments, or to support key disaster field office personnel may be included. Examples of users who are eligible for Priority Level 5 include personnel from the following categories:

(i) Medical recovery;

(ii) Detailed damage assessment;

(iii) Emergency shelter; and

(iv) Joint Field Office support personnel.

b. These priority levels were selected to meet the needs of NSEP users who manage and respond to national security and public safety emergency situations, particularly during the first 24 to 72 hours following an event.

c. The entities listed above are examples of the groups of users who may qualify for each priority level. The lists are non-exhaustive; other users may qualify for WPS, including those from the critical infrastructure sectors identified in Presidential Policy Directive 21. However, specific eligibility determinations and priority level assignments are made by DHS.

7. APPEAL

Service users and authorizing agents may appeal any priority level assignment, denial, revision, or revocation to DHS within 30 days of notification to the service user. If a dispute still exists following DHS action, an appeal may then be made to the FCC within 30 days of notification of DHS's decision. The party filing the appeal must include factual details supporting its claim and must provide a copy of the appeal to DHS and any other party directly involved. Involved parties may file a response to the appeal made to the FCC within 20 days, and the initial filing party may file a reply within 10 days thereafter. The FCC will provide notice of its decision to the parties of record. Until a decision is made, the service will remain status quo.

8. PREEMPTION OR DEGRADATION OF EXISTING SERVICES

Service providers may preempt or degrade in-progress voice, data, text, and video communications from NSEP users assigned to any priority level, except for public safety emergency (911) communications, when necessary to prioritize eligible WPS communications.

a. Service providers are not required to offer preemption or degradation.

b. Preemption and degradation are authorized for all five priority levels.

c. Preemption and degradation are not subject to the consent of the user whose service will be preempted or degraded.

9. PRIORITY SIGNALING

Service providers may offer priority signaling to ensure networks can detect WPS handset registration and service invocation.

[87 FR 39788, July 5, 2022]

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION, PROCEDURES, AND METHODOLOGIES

Subpart A—General

Sec.

Subpart B—Procedures