

by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### *J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on January 1, 2006.

#### **List of Subjects in 40 CFR Part 82**

Environmental protection, Administrative practice and procedures, Air pollution control, Chemicals, Exports, Imports, Ozone, Production, Reporting and recordkeeping requirements, Treaties.

Dated: December 22, 2005.

**Stephen L. Johnson,**  
*Administrator.*

■ 40 CFR Part 82 is amended as follows:

#### **PART 82—PROTECTION OF STRATOSPHERIC OZONE**

■ 1. The authority citation for part 82 continues to read as follows:

**Authority:** 42 U.S.C. 7414, 7601, 7671–7671q.

#### **Subpart A—Production and Consumption Controls**

■ 2. Section 82.8 is amended by revising paragraph (b) to read as follows:

#### **§ 82.8 Grant of essential use allowances and critical use allowances.**

\* \* \* \* \*

(b) A global exemption for class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2007, subject to the restrictions in appendix G

of this subpart, and subject to the record keeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

\* \* \* \* \*

[FR Doc. 05–24612 Filed 12–28–05; 8:45 am]

**BILLING CODE 6560–50–P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Part 64**

**[CG Docket No. 03–123; DA 05–3138]**

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; approval of allocation factor.

**SUMMARY:** In this document, the Commission adopts the Interstate Telecommunications Relay Services (TRS) Fund administrator's (the National Exchange Carrier Association, Inc. (NECA)), proposed interstate allocation factor of 11 percent for determining the number of inbound *two-line* captioned telephone minutes compensable from the Interstate TRS Fund. Also, in this document, the Commission concludes that NECA correctly calculated the factor as directed by the *Two-Line Captioned Telephone Order*. Therefore, the Commission directs NECA to compensate providers of inbound *two-line* captioned telephone calls from the Interstate TRS Fund pursuant to the 11 percent interstate allocation factor retroactively to the effective date of the *Two-Line Captioned Telephone Order*.

**DATES:** Effective December 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Thomas Chandler, Consumer & Governmental Affairs Bureau, Disability Rights Office at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail at [Thomas.Chandler@fcc.gov](mailto:Thomas.Chandler@fcc.gov).

**SUPPLEMENTARY INFORMATION:** On July 19, 2005, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order (*Two-Line Captioned Telephone Order*), CG Docket No. 03–123, FCC 05–141, which was published in the **Federal Register** on September 14, 2005 (70 FR 54294), concluding that *two-line* captioned telephone service is a type of TRS eligible for compensation from the Interstate TRS Fund, effective

October 14, 2005. On August 2, 2005, NECA submitted a proposed interstate allocation factor of 11 percent for inbound *two-line* captioned telephone minutes. This is a summary of the Commission's *Order*, DA 05–3138, adopted December 1, 2005, released December 2, 2005 in CG Docket 03–123, adopting NECA's proposed interstate allocation factor of 11 percent and directing NECA to compensate providers of inbound *two-line* captioned telephone calls from the Interstate TRS Fund pursuant to the 11 percent interstate allocation factor retroactively for the period October 14, 2005 through June 30, 2006. The *Order* does not contain new or modified information collections requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4). The full text of the *Order* and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Order* and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission duplicating contractor at their Web site <http://www.bcpweb.com> or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The *Order* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

#### **Synopsis**

In the *Two-Line Captioned Telephone Order*, the Commission concluded that *two-line* captioned telephone service is a form of TRS eligible for compensation from the Fund. *Two-Line Captioned Telephone Order*, 20 FCC Rcd at 13199, paragraph 10. *See generally Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98–67, Declaratory Ruling, 18 FCC Rcd 16121

(August 1, 2003), published at 68 FR 55898, September 29, 2003 (recognizing captioned telephone service as a form of TRS). The Commission also adopted NECA's proposed methodology for determining the number of inbound *two-line* captioned telephone call minutes compensable from the Fund. The Commission noted that for such calls there is currently no way for a provider to determine if a particular call is interstate or intrastate. As a result, the Commission instructed NECA to calculate an allocation factor for such calls that is based on the relationship between interstate and international traditional TRS calls and all intrastate, interstate, and international traditional TRS calls.

On August 2, 2005, NECA proposed an interstate allocation factor of 11 percent for inbound *two-line* captioned telephone minutes. NECA Letter at 2. The remaining 89 percent of such calls would be allocated to the intrastate jurisdiction. As NECA explains, it calculated the factor based on the providers' projections of traditional TRS minutes for 2005 and 2006. Interstate and international minutes for both years totaled 24,459,907; local, intrastate, interstate and international minutes totaled 213,957,866. Dividing interstate and international minutes by total minutes results in a proposed interstate factor of 11 percent for interstate inbound *two-line* captioned telephone minutes. On August 24, 2005, the Commission released a Public Notice requesting comment on NECA's proposed allocation factor. *National Exchange Carrier Association (NECA) Submits Proposed Allocation Factor for Inbound Two-Line Captioned Telephone Calls for Compensation from the Interstate Telecommunications Relay Services (TRS) Fund for July 2005 through June 2006*, CG Docket No. 03-123, Public Notice, DA 05-2346 (August 24, 2005) (NECA Proposed Factor PN); published at 70 FR 53191, September 7, 2005.

Three comments were filed. Comments were filed by Hamilton Relay, Inc. (Hamilton) (September 22, 2005); Ultratec, Inc. (Ultratec) (September 13, 2005), and New Jersey Protection and Advocacy, Inc. (NJP&A) (September 22, 2005). Hamilton and Ultratec support NECA's proposed 11 percent allocation factor as consistent with the Commission's methodology for allocating 800 and 900 number call minutes. Hamilton Comments at 2-3; Ultratec Comments at 2; see also *Two-Line Captioned Telephone Order*, 20 FCC Rcd at 13200, paragraph 12 (discussing allocation methodology used for 800 and 900 number call

minutes). Ultratec also seeks clarification of the effective date of the allocation factor. Ultratec Comments at 2-3. NJP&A, however, recommends that the Commission set allocation rates on a statewide basis because in some states a significantly greater percentage of TRS calls are interstate. NJP&A Comments at 2. NJP&A asserts that because New Jersey is located between the two large urban centers of New York and Philadelphia, New Jersey residents are more likely to make interstate calls, and therefore the proposed 11 percent factor would shortchange New Jersey and similar states.

#### Discussion

The Commission adopts NECA's proposed allocation factor of 11 percent for determining the number of inbound *two-line* captioned telephone minutes compensable from the Interstate TRS Fund. The remaining 89 percent of such minutes shall be compensated by the intrastate jurisdictions. Upon reviewing NECA's filing, the Commission concludes that it correctly calculated the factor as directed by the *Two-Line Captioned Telephone Order*.

NJP&A's assertion—that allocation rates be set on a statewide, rather than nationwide, basis—is not directed to NECA's proposed allocation factor, but rather to the allocation methodology itself. Therefore, this is not the appropriate proceeding in which to reconsider the allocation methodology, which the Commission adopted in the *Two-Line Captioned Telephone Order*. *Two-Line Captioned Telephone Order*, 20 FCC Rcd at 13200, paragraph 12. A party dissatisfied with the allocation methodology could have challenged that order by filing a petition for reconsideration or a petition for review. Nonetheless, the Commission notes that the allocation factor adopted in this *Order* will benefit the states because presently the states are compensating providers of inbound *two-line* captioned telephone calls for *all* such calls. See The National Exchange Carrier Association, Inc., CC Docket No. 98-67, CG Docket No. 03-123, *Petition for Declaratory Ruling* at 2 (filed December 10, 2004); *Two-Line Captioned Telephone Order*, 20 FCC Rcd at 13195, paragraph 1, note 3. Further, the Commission notes that this methodology is the same methodology used for the jurisdictional allocation 800 and 900 number call minutes. *Two-Line Captioned Telephone Order*, 20 FCC Rcd at 13198-13199, paragraph 9.

The *Two-Line Captioned Telephone Order* became effective October 14, 2005. *Two-Line Captioned Telephone Order*, 20 FCC Rcd at 13198-13199,

paragraph 23 (order is effective 30 days after publication in the **Federal Register**, which was September 14, 2005). Accordingly, the allocation factor adopted in this Order shall apply to the provision of inbound *two-line* captioned telephone calls for the period of October 14, 2005 through June 30, 2006. Under the Commission's rules, the TRS Fund year runs from July 1 to June 30. 47 CFR 64.604(c)(5)(iii)(H). A new allocation factor will be adopted each year at the same time the TRS compensation rates are adopted. The Commission recognizes that the *NECA Proposed Factor PN* sought comment on the proposed allocation factor for the annual period of July 1, 2005 through June 30, 2006. *NECA Proposed Factor PN* at 1. Because, however, the effective date of the *Two-Line Captioned Telephone Order's* conclusion that *two-line* captioned telephone service is a form of TRS compensation from the Interstate TRS Fund was October 14, 2005, no *two-line* captioned telephone calls could be compensated from the Fund prior to that date. Therefore, the allocation factor for inbound *two-line* captioned telephone calls cannot be applicable prior to that date.

The Commission therefore directs NECA to compensate providers of inbound *two-line* captioned telephone calls from the Interstate TRS Fund pursuant to the 11 percent interstate allocation factor retroactively to October 14, 2005.

#### Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law Number 104-121, Title II, 110 Statute 857 (1996). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business

applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.” A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632. Nationwide, there are approximately 1.6 million small organizations. Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

The *Order* adopts the interstate allocation factor for inbound *two-line* captioned telephone calls. As noted above, in August 2003 the Commission concluded that captioned telephone service is a form of TRS, and that eligible providers of such services are eligible to recover their costs in accordance with section 225 of the Communications Act. See paragraph 2, *supra*; see also *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16121, paragraph 1. In the July 2005 *Two-line Captioned Telephone Order*, the Commission concluded that *two-line* captioned telephone service is also a form of TRS eligible for compensation from the Fund. That order also recognized that there is no way to determine if a particular inbound *two-line* captioned telephone call is interstate or intrastate, and therefore adopted an allocation methodology and directed the Interstate TRS Fund administrator to propose an interstate allocation factor. The *Order* adopts the TRS Fund administrator’s proposed allocation factor.

The Commission does not believe that the adoption of the interstate allocation factor will have a significant economic impact; however, in the event that it does, it also notes that there are not a substantial number of small entities that will be affected by our action. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees. 13 CFR 121.201, NAICS code 517110 (changed from 513310 in October 2002). According to Census Bureau data for 1997, there were 2,225 firms in this category which operated for the entire year. U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 5, NAICS code 513310 (issued Oct. 2000). Of this total,

2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1,000 employees or more.”) Currently, only three providers are providing captioned telephone service and being compensated from the Interstate TRS Fund: CapTel, Inc., Hamilton and Sprint. The Commission expects that only one of these providers may be a small entity under the SBA’s small business size standard. In addition, the Interstate Fund Administrator is the only entity that will be required to pay to eligible providers of *two-line* captioned telephone service the costs of providing interstate service.

The Commission will send a copy of the *Order*, including a copy of this Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. 5 U.S.C. 605(b).

Federal Communications Commission.

**Jay Keithley**,

*Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.*

[FR Doc. 05–24620 Filed 12–28–05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 101

[WT Docket No. 02–146; FCC 05–45]

#### Allocations and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** On December 7, 2005, the Office of Management and Budget (OMB) approved the information collection requirements contained in § 101.1523(b) pursuant to OMB Control No. 3060–1070. The Memorandum Opinion and Order, released on March 3, 2005, FCC 05–45, stated that the revision to 47 CFR 101.1523(b) will be effective upon OMB approval. This document announces the effective date of that published rule. Accordingly, the information collection requirements contained in that rule became effective on December 7, 2005.

**DATES:** The revision to § 101.1523(b) published at 70 FR 29985, May 25, 2005, became effective on December 7, 2005.

**FOR FURTHER INFORMATION CONTACT:**

David Hu, Esq., Wireless Telecommunications Bureau, Broadband Division, at (202) 418–2487.

**SUPPLEMENTARY INFORMATION:** In a Memorandum Opinion and Order, released on March 3, 2005, *FCC 05–45*, and published in the **Federal Register** on May 25, 2005, 70 FR 29985, the Commission revised its *Allocations and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands*, requiring licensees, as part of the link registration process, to submit to the database manager an analysis under the interference protection criteria. This interference analysis requirement is a new and modified information collection, previously approved by OMB (OMB Control No. 3060–1070), and implements the revised § 101.1523(b) of the Commission’s rules as published in the **Federal Register** on May 25, 2005.

Federal Communications Commission.

**William F. Caton**,

*Deputy Secretary.*

[FR Doc. 05–24621 Filed 12–28–05; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 222 and 223

[Docket No.050922245–5345–05; I.D. 092005A, 100505D]

RIN 0648–AT89

#### Sea Turtle Conservation; Shrimp Trawling Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule.

**SUMMARY:** NMFS issues this 30-day temporary rule to allow shrimp fishermen to continue to use limited tow times as an alternative to Turtle Excluder Devices (TEDs) in inshore and offshore waters from the Florida/Alabama border, westward to the Louisiana/Texas border, and extending offshore 20 nautical miles. The previous 30-day variances of the TED requirements were from September 23 through October 23, 2005; October 11 through November 10, 2005; October 22 through November 23, 2005; and from