

much time as possible to process your request.

**ADDRESSES:** The meeting will be held at the Environmental Protection Agency, 1201 Constitution Ave., NW., Rm. 1117A, Washington, DC 20460-0001.

Requests to participate in the meeting, identified by docket identification (ID) number EPA-HQ-OPPT-2009-0112, may be submitted to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Paul Campanella or John Schaeffer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8091 or (202) 564-8173; e-mail address: [campanella.paul@epa.gov](mailto:campanella.paul@epa.gov) or [schaeffer.john@epa.gov](mailto:schaeffer.john@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (defined by statute to include import) or process any of the chemical substances that are listed in §799.5089(j) of the proposed test rule's regulatory text published in the **Federal Register** of issue of February 25, 2010 (75 FR 8575). Any use of the term "manufacture" in this document will encompass "import," unless otherwise stated. In addition, once the Agency issues a final rule, any person who exports, or intends to export, any of the chemical substances included in the final rule will be subject to the export notification requirements in TSCA 12(b)(1) and 40 CFR part 707, subpart D. Potentially affected entities may include, but are not limited to:

- Manufacturers (defined by statute to include importers) of one or more of the 29 subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.
- Processors of one or more of the 29 subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American

Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult either technical person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket ID number EPA-HQ-OPPT-2009-0112. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

##### II. Background

In the **Federal Register** issue of February 25, 2010 (75 FR 8575) (FRL-8805-8), EPA published a proposed rule under TSCA section 4(a)(1)(B) to require manufacturers, importers, and processors of certain HPV chemical substances to conduct testing to obtain screening level data for health and environmental effects and chemical fate. EPA has preliminarily determined that: Each of the 29 chemical substances included in that proposed rule is produced in substantial quantities and that there is or may be substantial human exposure to each of them; there are insufficient data to reasonably determine or predict the effects on

health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemical substances or of any combination of these activities; and the testing program proposed is necessary to develop such data. Data developed under the proposed rule, when finalized, will provide critical information about the environmental fate and potential hazards associated with the subject chemical substances. When combined with information about exposure and uses, these data will allow the Agency and others to evaluate potential health and environmental risks and to take appropriate follow-up actions.

In response to the proposed rule, EPA received a request to present oral comment from People for the Ethical Treatment of Animals (PETA). Written comments provided during the comment period for the proposed rule, including those requesting an opportunity for oral comment, are available and can be viewed in the docket under docket ID number EPA-HQ-OPPT-2009-0112.

##### III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to the technical person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number EPA-HQ-OPPT-2009-0112, must be received on or before September 8, 2010.

##### List of Subjects

Environmental protection, Chemicals, Hazardous substances, Laboratories, Reporting and recordkeeping requirements.

Dated: August 17, 2010.

**Stephen A. Owens,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2010-20845 Filed 8-20-10; 8:45 am]

**BILLING CODE 6560-50-S**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 10-51; FCC 10-88]

#### Structure and Practices of the Video Relay Service Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on ways to amend its rules to detect and prevent fraud and misuse in the provision of Video Relay Service (VRS). Because the VRS program has been subject to fraud and abuse, the Commission proposes these changes in order to deter the billing of illegitimate minutes to the Interstate Telecommunications Relay Service (TRS) Fund (Fund).

**DATES:** For issues regarding Location of VRS Call Centers, VRS Communications Assistants (CAs) Working from Home and Compensation, and Whistleblower Protections for VRS CAs and Other Provider Employees, comments are due on or before September 7, 2010, and reply comments due on or before September 16, 2010. For all other issues, comments are due on or before September 13, 2010, reply comments due on or before September 27, 2010. Written comments on the proposed information collection requirements, subject to the Paperwork Reduction Act of 1995, Public Law 104-13 (PRA), should be submitted on or before October 22, 2010.

**ADDRESSES:** You may submit comments, identified by [CG Docket No. 10-51 and/or FCC 10-88], by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS) <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CG Docket No. 10-51.
- Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8 a.m. to 7 p.m.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

In addition, document FCC 10-88 contains proposed information collection requirements subject to the PRA. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection requirements contained in this document. PRA comments should be submitted to Cathy Williams, Federal Communications Commission via email at [PRA@fcc.gov](mailto:PRA@fcc.gov) and [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov), and to Nicholas A. Fraser, Office of Management and Budget, via fax at (202) 395-5167, or via email to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:**

Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office at (202) 559-5158 (voice and videophone), (202) 418-0431 (TTY), or e-mail at [Gregory.Hlibok@fcc.gov](mailto:Gregory.Hlibok@fcc.gov). For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams at (202) 418-2918, or via the Internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Structure and Practices of the Video Relay Service Program*, Notice of Proposed Rulemaking (2010 VRS Reform NPRM), document FCC 10-88, adopted on May 24, 2010, and released on May 27, 2010, in CG Docket No. 10-51. In conjunction with the 2010 VRS Reform NPRM in FCC 10-88, the Commission also issued a *Declaratory Ruling and Order* in CG

Docket No. 10-51, published at 75 FR 39859, July 13, 2010 and 75 FR 39945, July 13, 2010.

The full text of document FCC 10-88 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: (800) 378-3160, fax: (202) 488-5563, or Internet: <http://www.bcpiweb.com>. Document FCC 10-88 can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb/dro/trs.html#orders>. Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments and reply comments must include a short and concise summary of the substantive discussion and questions raised in the 2010 VRS Reform NPRM. The Commission further directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. The Commission strongly encourages that parties track the organization set forth in this 2010 VRS Reform NPRM in order to facilitate its internal review process. Comments and reply comments must otherwise comply with 47 CFR 1.48 and all other applicable sections of the Commission's rules.

Pursuant to 47 CFR 1.1200 *et seq.*, this matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b).

**People with Disabilities:** 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 and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

### Initial Paperwork Reduction Act of 1995 Analysis

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the proposed information collection requirements contained in this document, as required by the PRA. Public and agency comments are due October 22, 2010. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it may "further reduce the information collection burden for small business concerns with fewer than 25 employees."

*OMB Control Number:* 3060-xxxx.

*Title:* Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51.

*Form No.:* N/A.

*Type of Review:* New Collection.

*Respondents:* Business and other for-profit entities.

*Number of Respondents:* 13.

*Number of Responses:* 1,353.

*Estimated Time per Response:*

1 minute (.017 hours) to 40 hours.

*Frequency of Response:* One-time, monthly, quarterly, annual, and on occasion reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for these proposed information collections is found at section 225 of the Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101-336, 104 Stat. 327, 366-69.

*Total Annual Hourly Burden:* 19,677 hours.

*Total Annual Costs:* \$32,500.

*Nature and Extent of Confidentiality:* Much of the data that providers would have to submit pursuant to (A)-(C) in the Needs and Uses section, below, would fall under 47 CFR 64.604(c)(5)(iii)(I), pursuant to which the Fund administrator keeps all data

obtained from contributors and TRS providers confidential and does not disclose such data in company-specific form unless directed to do so by the Commission.

*Privacy Act Impact Assessment:* No impacts.

*Needs and Uses:* In the 2010 VRS Reform NPRM, the Commission seeks comment on ways to amend its rules to detect and prevent fraud and misuse in the provision of VRS. The 2010 VRS Reform NPRM contains potential information collection requirements with respect to the following six of its proposals, all of which could further the aims of the 2010 VRS Reform NPRM. Though the 2010 VRS Reform NPRM emphasizes VRS, many of the proposals would also apply to other or all forms of TRS.

(A) Whether TRS providers should be required to automatically capture the conversation time, to the nearest second, for each call submitted for payment from the Fund.

(B) Whether the TRS rules should be amended to specifically require that relay providers submit specified call data information in order to be eligible for compensation from the Fund; and whether they should be amended to require that the data be submitted electronically and in a standardized format, and, if so, what the standardized format should be.

(C) Whether the Commission should require VRS providers eligible for compensation from the Fund that submit minutes for payment to file with the Commission and Fund administration on a quarterly basis a statement detailing the name and address of each call center the provider owns or controls (this would include subcontractors operating call centers and entities operating call centers for a subcontractor), the number of CAs and CA managers at the call center, and the name and contact information for the managers of the call center; and whether the Commission should require VRS providers to file an amendment to their most recent quarterly filing each time they open a new call center, close a call center, or the ownership or management of a call center changes, or changes to the list of providers whose calls are processed through the call center within 30 days of such an event.

(D) Whether all VRS providers should be required to make available their cost and demand data to the public.

(E) Whether Internet-based TRS providers should be required to retain their call detail records, other records that support their claims for payment from the Fund, and those records used to substantiate the costs and expense

data submitted in the annual relay service data request form, for five years.

(F) Whether the CEO, CFO, or other senior executive of a relay service provider should be required to certify, under penalty of perjury, that: (1) Minutes submitted to the Fund administrator for compensation were handled in compliance with 47 U.S.C. 225 and the Commission's rules and orders, and are not the result of impermissible financial incentives, or payments or kickbacks, to generate calls, and (2) cost and demand data submitted to the Fund administrator related to the determination of compensation rates or methodologies are true and correct.

### Synopsis

In the 2010 VRS Reform NPRM, the Commission seeks comment on a range of issues affecting the provision of VRS and ways to detect and prevent fraud and misuse. The Commission's goal is to ensure that VRS continues to thrive as a highly functionally equivalent form of TRS, that it remains readily available to consumers (deaf and hearing alike), and that it continues to offer consumers high quality service. To reach this goal, however, the Commission must also ensure the integrity of the program. To that end, the Commission must make sure that its service and compensation rules do not result in or perpetuate unjustifiable payments to providers at American ratepayers' expense, the provision and billing of illegitimate calls, and the provision of service by unqualified providers or that is not in compliance with the service rules.

### Location of VRS Call Centers

1. The Commission recognizes that some providers have established VRS call centers that are located outside the United States where ASL is generally not the primary form of sign language. The Commission is also concerned that VRS call centers outside the United States may lack appropriate supervision and otherwise not operate in compliance with the Commission's rules, and that these call centers may be (or have been) a source of fraud and or otherwise may not be handling legitimate VRS calls. The Commission therefore tentatively concludes that it will amend its rules to require that all VRS call centers be located in the United States, and seeks comment on this tentative conclusion.

### VRS CAs Working From Home and Compensation

2. The Commission recognizes that some VRS CAs work from home, and that there are benefits that come with the flexibility of these arrangements.

This practice, however, raises concerns about whether the confidentiality of calls can be guaranteed and whether VRS CAs working from home can meet other mandatory minimum standards applicable to the provision of relay, such as the ability to handle emergency calls in accordance with the Commission's rules. The Commission seeks comment on how it can balance the goals of allowing CAs the convenience and flexibility that comes with working from home with the need to ensure the confidentiality of calls and that the Commission's mandatory minimum standards are met. The Commission also seeks comment on whether, if CAs may work from home, providers should be required to treat the homes of CAs who work from home as "call centers" for purposes of TRS administration.

3. The Commission also understands that some CAs have in the past been paid bonuses for working through scheduled breaks or working overtime in order to relay more minutes which may have resulted in schemes by CAs to initiate or participate in fraudulent VRS calls in order to receive such bonuses while still receiving necessary breaks. While the Commission believes the vast majority of CAs do not engage in this type of minute-pumping, the Commission seeks comment on whether such bonus schemes or any other type of compensation arrangement exist; and, if so, whether they incent CAs to arrange or cause to be arranged calls that would not otherwise be made, and what types of safeguards can be adopted to deter and prevent use of them.

#### **Procedures for the Suspension of Payment**

4. The TRS rules that authorize the Fund administrator to suspend or delay payments to a TRS provider if the provider fails to provide adequate verification of payment do not set forth in detail procedures for the suspension of payment and the resolution of whether certain minutes are legitimate and should be paid. The Commission therefore seeks comment on the adoption of new rules addressing the procedures for the suspension or withholding of payments to providers in circumstances where the Fund administrator reasonably believes that the minutes may not be legitimate or otherwise were not submitted in compliance with the TRS rules.

5. In ensuring that the providers must be afforded due process, the Commission tentatively concludes that the rules must, at a minimum: (1) Give timely notice to the providers of the minutes for which payment is being

withheld, as well as the reason(s) for the withholding; (2) afford providers an opportunity to show why they believe the withheld minutes are in fact compensable; and (3) require that providers be given, in a timely fashion, a final determination of whether payment will be made for the disputed minutes with a supporting explanation. The Commission also tentatively concludes that the rules should place the burden on the provider to show that the minutes in question are compensable and were handled in accordance with the Commission's rules. The Commission seeks comment on these tentative conclusions, and on the nature of the showing providers should be required to make to establish that minutes submitted for payment are legitimate. Further, the Commission seeks comment on whether it should adopt new rules or modify existing rules to provide the TRS Fund administrator with the tools necessary to execute its administrative and auditing responsibilities.

#### **Specific Call Practices**

6. *International VRS Calls.* In the *VRS Declaratory Ruling*, published at 75 FR 25255, May 7, 2010, the Bureau confirmed that VRS calls that both originate and terminate outside the United States are not compensable. The Commission seeks comment on ways to address fraud and misuse associated with international VRS calls without undermining the use of VRS to make legitimate international calls. The Commission also seeks comment on the role of ten-digit numbering, registered locations, or other potential solutions (e.g., particular software) to help ensure that VRS calls that terminate overseas are, in fact, legitimate TRS calls.

7. *VRS Calls in Which the Caller's Face Does Not Appear on the Screen; Use of Privacy Screens; Idle Calls.* Some VRS providers and VRS equipment permit a VRS caller to use a "privacy screen" during a call that prevents the VRS CA from viewing the caller. Although there may be legitimate reasons for a VRS CA or a caller to briefly use a privacy screen, in some instances it may be used to facilitate a call solely intended to generate minutes. The Commission therefore seeks comment on how it might amend the TRS rules to address the use and misuse of privacy screens. The Commission also specifically seeks comment on its tentative conclusion that if a caller is away from the call or unresponsive for longer than two minutes, the CA should disconnect the call, and on what the appropriate time period a call may be idle is before being disconnected. A

VRS call placed on hold by a business would not be considered "idle," even if the hold time exceeds two minutes.

8. *Calls Involving Remote Training.* The Commission recognizes that a significant number of VRS minutes submitted for compensation in recent months are attributable to remote training. To the extent that VRS calls that enable a person to participate in remote training using a VRS CA are, in fact, being used as a substitute for in-person interpreting or Video Remote Interpreting (VRI) services, the Commission has already made clear that this would be an improper use of VRS. The Commission seeks comment on its tentative conclusion that, despite its prior finding that calls made for the purpose of generating compensable minutes as a source of provider revenue are not compensable from the Fund, a rule specifically barring compensation for remote training calls initiated or promoted by or on behalf of a provider would serve as an additional deterrent against fraud and misuse of the Fund.

#### **Detecting and Stopping the Billing of Illegitimate Calls**

9. *Automated Call Data Collection.* The Commission seeks comment on its tentative conclusion that the TRS rules should be modified to make clear that providers must automatically capture the conversation time, to the nearest second, for each call submitted for payment from the Fund, which the Commission expects would reduce opportunities for fraud and the erroneous submission of minutes for payment.

10. *Data Filed with the Fund Administrator to Support Payment Claims.* In 2008, the Fund Administrator instructed VRS providers that, in addition to the speed of answer compliance data they were already submitting, monthly minutes of use submitted for payment must be supported by the following call data records: (1) The call record ID sequence; (2) Communications Assistant ID; (3) session start and end times; (4) conversation start and end times; (5) incoming telephone number or IP address; (6) outbound telephone number or IP address; (7) total conversation minutes; and (8) total session minutes. The Commission seeks comment on its tentative conclusion that the TRS rules should be amended to specifically require the filing of this call data information as a functional TRS mandatory minimum standard that providers must meet to be eligible for compensation from the Fund, because review of this information is essential to detecting and deterring fraud and the

billing of illegitimate calls. The Commission also seeks comment on any other call record information it should require providers to submit to the Fund administrator to support their claims for payment, and on its tentative conclusion that the TRS rules should be amended to require that all this data be submitted electronically and in a standardized format.

11. *Requiring Providers to Submit Information About New and Existing Call Centers.* The Commission seeks comment on its tentative conclusions that: (1) It should amend the TRS mandatory minimum standards to require VRS providers eligible for compensation from the Fund that submit minutes for payment to file with the Commission and Fund administrator on a quarterly basis a statement detailing the name and address of each call center the provider owns or controls, the number of CAs and CA managers at the call center, and the name and contact information for the managers of the call center; and (2) that it will require VRS providers to file an amendment to their most recent quarterly filing each time they open a new call center, close a call center, or the ownership or management of a call center changes, or changes to the list of providers whose calls are processed through the call center. The Commission further proposes that such amendments be required to be filed within thirty days of such an event. This information will enable the Commission and Fund administrator to better oversee compliance with Commission rules to ensure the compensability of submitted minutes as well as to ensure that sub-contractors are providing the quality of service the Commission's rules require.

12. *Requiring Service to be Offered in the Name of the Provider Seeking Compensation from the Fund; Revenue Sharing Schemes.* The Commission's rules permit providers eligible for compensation from the Fund to subcontract with other entities for actual provision of service. Although the eligible provider is responsible for ensuring that such calls billed to the Fund are legitimate, in some cases it is possible that the eligible provider exercises very little oversight over the call handling operations. In other cases, arrangements have been made in order to facilitate fraud. One VRS provider proposes that the Commission adopt a rule stating that providers cannot be compensated from the Fund unless the provider seeking compensation "clearly identified itself to the calling parties at the outset of the calls as the TRS provider for those calls." Another VRS

provider proposes that the Commission altogether prohibit uncertified entities from billing the TRS Fund through certified providers. The Commission seeks comment on these proposals and on other ways it can ensure that the entities that actually relay calls are accountable for compliance with the Commission's rules.

13. *Whistleblower Protections for VRS CAs and Other Provider Employees.* The Commission recognizes that CAs and other employees of providers are often in the best position to detect possible fraud and misconduct by the provider, but that employees are often reluctant to report possible wrongdoing because they fear they may lose their job or be subject to other forms of retaliation. Given recent evidence of fraud and the billing of illegitimate VRS minutes, the Commission seeks comment on its tentative conclusion that it should adopt a specific whistleblower protection rule for the employees and subcontractors of TRS providers, and on what the scope and contents of such a rule should be.

14. *Transparency and the Disclosure of Provider Financial and Call Data.* Currently, the Commission addresses provider cost and demand data only in the aggregate or in some other way that does not reveal the individual data of a particular provider. The Commission seeks comment on whether it should require that all VRS provider cost and demand data be made available to the public and, if so, how such a requirement should be implemented. The Commission further seeks comment on how it might balance the legitimate need for transparency of provider costs with any legitimate interest in keeping that information (or some portion of it) confidential. The Commission requests that commenters favoring disclosure specifically address the scope of such requirement, how the data should be made public, and any exceptions or limits to a rule requiring disclosure of provider specific cost and demand data.

15. *Provider Audits.* The Commission is authorized to suspend payment to providers who do not submit to audits. The Commission seeks comment on whether it should amend the TRS mandatory minimum standards to include more specific and stringent auditing rules in order to better safeguard the integrity of the Fund. Commenters favoring such rules should address the scope and frequency of such audits.

16. *Record Retention.* The Commission recognizes that to detect and deter fraud or other call or billing irregularities it must have access to the underlying call data. The Commission seeks comment on its tentative

conclusion that it should amend the TRS rules to require Internet-based TRS providers to retain their call detail records, other records that support their claims for payment from the Fund, and those records used to substantiate the costs and expense data submitted in the annual relay service data request form, for five years.

17. *Provider Certification Under Penalty of Perjury.* In the Order portion of document FCC 10-88, the Commission adopts an interim rule requiring the CEO, CFO, or other senior executive of a relay service provider to certify, under penalty of perjury, that: (1) Minutes submitted to the Fund administrator for compensation were handled in compliance with section 225 of the Communications Act of 1934, as amended, and the Commission's rules and orders, and are not the result of impermissible financial incentives, or payments or kickbacks, to generate calls, and (2) cost and demand data submitted to the Fund administrator related to the determination of compensation rates or methodologies are true and correct. See 75 FR 39859, July 13, 2010. The Commission seeks comment on its tentative conclusion that it should adopt these rules permanently.

#### **Initial Regulatory Flexibility Certification**

18. The Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(1). 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. A "small business concern" is one that: (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).

19. In the 2010 VRS Reform NPRM, the Commission reaches tentative conclusions on a range of issues affecting the provision of VRS and ways to detect and prevent fraud and misuse in the VRS program. Specifically, the Commission tentatively concludes that: All VRS call centers must be located in the United States; VRS CAs must work in a centralized call center where other

personnel are present, including other CAs and supervisors; the Commission should adopt new rules, affording providers due process, addressing procedures for the suspension or withholding of payments to providers in circumstances where the Fund Administrator reasonably believes that the minutes may not be legitimate or otherwise were not submitted in compliance with the TRS rules, but placing the burden on the provider to show that the minutes in question are compensable and were handled in accordance with the TRS rules; VRS calls that originate or terminate overseas shall not be compensable from the Fund; a CA should disconnect a VRS call in which the caller's face does not appear on the screen (including when the caller is using a "privacy screen"), or where the call is "idle," for more than two minutes; a rule specifically barring compensation for remote training calls initiated or promoted by or on behalf of a provider would serve as an additional deterrent against fraud and misuse of the Fund; providers must use automated, rather than manual, methods to capture a TRS call's conversation time, to the nearest second, for each call submitted for payment from the Fund; the TRS rules should specifically require that providers file certain call data information in order to be eligible for compensation from the Fund, and providers must file it electronically and in a standardized format; providers must file with the Commission and Fund administrator on a quarterly basis a statement detailing the name and address of each call center the provider owns or controls (including subcontract arrangements), as well as various information concerning the management of such call centers; the Commission should adopt a permanent rule requiring the CEO, CFO, or other senior executive of a provider submitting data to the Fund administrator to make various certifications under penalty of perjury; the Commission should adopt specific whistleblower protection rules for the employees and subcontractors of TRS providers; and Internet-based TRS providers must retain their call detail records, and other records to support their claims for payment from the Fund, for five years.

20. The *2010 VRS Reform NPRM* also seeks comment on whether the Commission should prohibit "white-label" Internet-based TRS services—where non-certified providers offer service and bill the Fund through certified providers—and on other ways that the Commission can ensure that the entities that actually relay calls are

accountable for compliance with the Commission's rules. In addition, it seeks comment on whether—and if so, how—VRS provider cost and demand data should be made available to the public, and whether the Commission should adopt more specific and stringent auditing rules in order to better safeguard the integrity of the Fund.

21. With regard to whether a substantial number of small entities may be affected by the requirements proposed in the *2010 VRS Reform NPRM*, the Commission notes that, of the fourteen providers affected by the *2010 VRS Reform NPRM*, no more than five meet the definition of a small entity. 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. Currently, fourteen providers receive compensation from the Interstate TRS Fund for providing any form of TRS. Because no more than five of the providers that would be affected by the *2010 VRS Reform NPRM*, if adopted, are deemed to be small entities under the SBA's small business size standard, the Commission concludes that the number of small entities potentially affected by our proposed rules is not substantial. Moreover, given that all providers potentially affected by the proposed rules, including those deemed to be small entities under the SBA's standard, would be entitled to receive prompt reimbursement for their reasonable costs of compliance, the Commission concludes that the *2010 VRS Reform NPRM*, if adopted, will not have a significant economic impact on these small entities.

22. Therefore, the Commission certifies that the proposals in the *2010 VRS Reform NPRM*, if adopted, will not have a significant economic impact on a substantial number of small entities.

23. The Commission will send a copy of the *2010 VRS NPRM*, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

#### Ordering Clauses

Pursuant to sections 1, 4(i) and (o), 225, 303(r), 403, 624(g), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 225, 303(r), 403, 554(g), and 606, document FCC 10–88 is adopted.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of document FCC 10–88, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for

Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 64

Claims, Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

#### Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

#### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

2. Section 64.604 is amended by adding paragraphs (a)(3)(ix), (a)(6), (a)(7), and (b)(4)(iii), and by revising paragraph (c)(5)(iii)(E), to read as follows:

#### § 64.604 Mandatory minimum standards.

\* \* \* \* \*

(a) \* \* \*  
(3) \* \* \*

(ix) Relay calls that enable a person with hearing or speech disability to participate in a remote training program, made available to the public or to an entity's employees, do not fall within the scope of this subpart.

\* \* \* \* \*

(6) In addition to those standards set forth above, Internet-based TRS providers shall be subject to the following standards:

(i) *Automated call data collection.* For each Internet-based TRS call, providers must automatically record session and conversation time to the nearest second.

(ii) *Revenue sharing agreements.* The administrator shall not compensate for minutes resulting from an Internet-based TRS call unless the entity seeking compensation from the Fund for such minutes clearly identified itself to the calling parties at the beginning of the call as the TRS provider for the call.

(iii) *Whistleblower protections.* Providers shall permit any employee, agent, or contractor to disclose to a designated manager any known or suspected violations of FCC rules, or any other activity that the reporting person believes to be unlawful, wasteful, fraudulent, or abusive, or that otherwise could result in the improper

billing of minutes to the Interstate TRS Fund. Providers must make available at least one means by which such disclosure may be made anonymously. Providers must promptly investigate any report of wrongdoing and, when warranted, take appropriate corrective action. Providers may not discipline any employee, agent, or contractor solely for reporting under this provision. Providers shall also inform all employees, agents, and contractors that they may directly contact the Commission's Office of Inspector General to report wrongdoing.

(iv) *Record retention.* Providers shall retain their call detail records for five years from the date of service, and shall make such records available to the Commission or administrator upon request.

(7) In addition to those standards set forth above, Video Relay Service providers shall be subject to the following standards:

(i) *Idle time or no face on screen.* If either party to a VRS call is away from the call, or otherwise unavailable or unresponsive, for more than two minutes the CA may disconnect the call, except when the call has been placed on hold by a business. If at any time during a VRS call a VRS CA is confronted with only a blank screen (e.g., a privacy screen), or a screen that does not display the face of the video caller, the CA may disconnect the call if the video caller's face does not reappear within two minutes.

(ii) *Call center information.* VRS providers shall file quarterly reports with the Commission and the administrator by March 31, June 30, September 20, and December 31 each year stating the name and address of each call center the provider owns or controls (including call centers owned or operated by subcontractors or entities operating calls centers for a subcontractor), the number of CAs and CA managers at each call center, and the name and contact information for the key managers at each call center. VRS providers shall file an amendment to their most recent quarterly filing within 30 days of opening a call center, closing a call center, or changing the ownership or management of a call center.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(iii) *Location of call centers.* VRS call centers must be located in the United States.

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \*

(iii) \* \* \*

(E) *Payments to TRS providers.* 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. 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. 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. These reports shall include the call record ID sequence, CA ID, session start and end times, conversation start and end times, incoming telephone number or IP address for Internet-based TRS service not subject to the numbering requirements under § 64.611, outbound telephone number or IP address for Internet-based TRS service not subject to the numbering requirements under § 64.611, total conversation minutes, and total session minutes. In addition, VRS and IP Relay providers shall include in their reports speed of answer compliance data. 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 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 parts 32 and 36 of this chapter procedures reasonably tailored to meet the needs of TRS providers. 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. The formulas should appropriately compensate interstate providers for the provision of VRS, whether intrastate or interstate.

\* \* \* \* \*

[FR Doc. 2010-20615 Filed 8-20-10; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**Docket No. 0906041011-91012-01**

**RIN 0648-AX91**

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Halibut and Sablefish Individual Fishing Quota Program**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to modify the Individual Fishing Quota (IFQ) Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in waters in and off Alaska (IFQ Program) by revoking quota share (QS) that have been inactive since they were originally issued in 1995. Inactive QS are those held by persons that have never harvested their IFQ and have never transferred QS or IFQ into or out of their accounts.

This action is necessary to achieve the catch limit from the halibut fisheries and optimum yield from the sablefish fisheries in Alaska in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act and results in more efficient use of these species as supported by National Standard 5. The intended effect is to promote the management provisions in the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, and the Northern Pacific Halibut Act of 1982.

**DATES:** Comments must be received by 5 p.m., local time, on September 22, 2010.

**ADDRESSES:** Send comments to Sue Salveson, Assistant Regional