64.604(c)(1)–(c)(3), 64.604(c)(5)(iii)(C), 64.604(c)(5)(iii)(E), 64.604(c)(5)(iii)(G), 64.604(c)(6)(v)(A)(3), 64.604(c)(6)(v)(G), 64.604(c)(7), and 64.606(b), by removing the notes contained in those rule sections as they appeared in the **Federal Register**.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 6 and 64 as follows:

PART 6—ACCESS TO TELECOMMUNICATIONS SERVICE, TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT BY PERSONS WITH DISABILITIES

■ 1. The authority citation for part 6 continues to read as follows:

Authority: 47 U.S.C. 151–154, 251, 255, and (303)(r).

§ 6.11 [Amended]

■ 2. Section 6.11 is amended by removing the notes to paragraphs (a) and (b).

§ 6.18 [Amended]

■ 3. Section 6.18 is amended by removing the note to paragraph (b).

§ 6.19 [Amended]

■ 4. Section 6.19 is amended by removing the note to § 6.19.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 5. 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.

§ 64.604 [Amended]

■ 6. Section 64.604 is amended by removing the notes to paragraphs (a)(5), (c)(1) through (c)(3), (c)(5)(iii)(C), (c)(5)(iii)(E), (c)(5)(iii)(G), (c)(6)(v)(A)(3), (c)(6)(v)(G), and (c)(7).

§ 64.606 [Amended]

■ 7. Section 64.606 is amended by removing the note to paragraph (b).

[FR Doc. E8–8596 Filed 4–18–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123 and WC Docket No. 05–196; FCC 08–78]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts emergency call handling requirements for Internet-based telecommunications relay service (TRS) providers. These measures will ensure that persons using Internet-based forms of TRS, *i.e.*, Video Relay Service (VRS), Internet Protocol (IP) Relay, and IP captioned telephone relay service (IP CTS), can promptly access emergency services, pending adoption of a solution that will permit Internet-based TRS providers to immediately and automatically place the outbound leg of an emergency call to an appropriate public safety answering point (PSAP), designated statewide default answering point, or appropriate local emergency authority.

DATES: Effective May 21, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers,* Report and Order (*VRS 911 Order*), FCC 08–78, adopted March 11, 2008, and released March 19, 2008, in CG Docket No. 03–123 and WC Docket No. 05–196. FCC 08–78 addresses issues arising from the Commission's *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Notice of Proposed Rulemaking (*VRS/IP Relay 911 NPRM*), CG Docket No. 03–123, FCC 05–196, published at 71 FR 5221, February 1, 2006; Declaratory Ruling (*IP CTS Declaratory Ruling*), CG Docket No. 03–123, FCC 06–186, published at 72 FR 6960, February 14, 2007. The full text of FCC 08–78 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. FCC 08–78 and copies of subsequently filed documents in this matter also may 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's duplicating contractor at its Web site *www.bcpiweb.com* or by calling 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* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). FCC 08–78 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/dro/trs.html.*

Paperwork Reduction Act of 1995 Analysis

FCC 08–78 does not contain new or modified information collection 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 106–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

Background

1. In the *2000 TRS Order,* CC Docket No. 98–67, 15 FCC Rcd at 5182–84, paragraphs 99–102, published at 65 FR 38432, June 21, 2000 and 65 FR 38490, June 21, 2000, the Commission required TRS providers to direct emergency calls as quickly as possible to the correct PSAP by matching a caller's phone number with the appropriate PSAP electronically. The Commission also required communications assistants (CAs) to pass along the caller's telephone number to the PSAP orally, which would allow the PSAP to directly call back the calling party if the relay call became disconnected.

2. In 2003, the Commission again addressed the rules governing TRS access to emergency services. *2003 TRS Order,* CC Docket No. 98–67, CG Docket No. 03–123, 18 FCC Rcd 12379, 12406–09, paragraphs 40–46 (June 17, 2003),

published at 68 FR 50093, August 25, 2003 and 68 FR 50973, August 25, 2003. The Commission clarified that TRS providers must route emergency TRS calls to the appropriate PSAP and required TRS providers to adjust their databases accordingly. *2003 TRS Order,* 18 FCC Rcd at 12406–08, paragraphs 40–42 (rejecting proximity as criterion for determining the appropriate PSAP and defining it, in light of the statutory functional equivalency mandate, as the PSAP to which a direct 911 call would be delivered over the PSTN). On reconsideration, the Commission clarified that the appropriate PSAP is ''either a PSAP that the caller would have reached if he had dialed 911 directly, or a PSAP that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner.'' *2004 TRS Report and Order,* CC Docket Nos. 90–571 and 98–67, CG Docket No. 03–123, 19 FCC Rcd at 12559, paragraph 216, published at 69 FR 53346, September 1, 2004 and 69 FR 53382, September 1, 2004. Because of jurisdictional boundaries, the appropriate PSAP is not always the geographically closest PSAP to the calling party.

3. *Emergency Call Handling Issues for Internet-Based Forms of TRS.* Through a series of orders between 2001 and 2007, the Commission examined the emergency call handling requirement as applied to Internet-based relay services and, in particular, considered the technological challenges associated with determining the geographic location of TRS calls that originate over the Internet. The Commission recognized that because these services use the Internet, rather than a telephone and the PSTN, for the link of the call between the calling party and the relay provider, the relay provider does not receive the ANI of the calling party. *See, e.g., 2004 TRS Report and Order,* 19 FCC Rcd at 12522, paragraph 117. As a result, there is greater complexity with identifying the caller's location and determining the appropriate PSAP to call to respond to the emergency. *See, e.g., 2004 TRS Report and Order,* 19 FCC Rcd at 12522, paragraph 117; *see also IP Relay Declaratory Ruling and Second FNPRM,* 17 FCC Rcd at 7789, paragraph 30, published at 67 FR 39863, June 11, 2002 and 67 FR 39929, June 11, 2002 (recognizing that, without ANI of the calling party, IP Relay provider petitioner could not provide PSAP with information regarding the calling party's location); and 47 CFR 64.604(a)(4) of the Commission rules. The Commission therefore determined that a temporary waiver was needed to the extent that these technological challenges hindered providers' ability to ''immediately and automatically'' place the outbound leg of an emergency call to an appropriate PSAP, as required by the Commission's emergency call handling rule. *See, e.g., 2001 VRS Waiver Order,* 17 FCC Rcd at 161, paragraph 11 (granting temporary waiver of emergency call handling requirement for VRS providers). The temporary waivers of the emergency call handling rule for VRS and IP Relay were scheduled to expire after December 31, 2007. *See 2006 VRS Waiver Order,* 21 FCC Rcd 14554; published at 72 FR 11789, March 14, 2007 (extending VRS waiver through December 31, 2007); *IP Relay Reconsideration Order,* 18 FCC Rcd 4761(extending IP Relay waiver through December 31, 2007); *2007 IP CTS Declaratory Ruling,* 22 FCC Rcd 379 (waiving emergency call handling requirement for IP CTS until emergency access for the Internet-based forms of TRS is resolved).

4. In November 2005, the Commission released the *VRS/IP Relay 911 NPRM* seeking comment on possible means by which VRS and IP Relay providers might be able to handle emergency calls so that the waivers would no longer be necessary. *VRS/IP Relay 911 NPRM,* 20 FCC Rcd at 19480–81, paragraphs 9–12 (at this time, the Commission had not yet recognized IP CTS as a form of TRS). The Commission recognized that many individuals use VRS and IP Relay to contact emergency services, rather than making emergency calls by directly calling 911 through a TTY and a traditional telephone line. The Commission therefore sought comment on what emergency call handling rules should apply to VRS and IP Relay providers, including by what means these providers may determine the appropriate PSAP to contact when they receive an emergency call. The Commission also sought comment on whether and how VRS and IP Relay providers may identify incoming calls as emergency calls so that such calls can promptly be directed to a Communications Assistant (CA) without waiting in a queue. *VRS/IP Relay 911 NPRM,* 20 FCC Rcd at 19487, paragraph 26.

5. In the *VRS/IP Relay 911 NPRM,* the Commission also sought comment on whether it should require the Internet-based TRS providers to establish a registered location process, similar to that adopted in the *VoIP 911 Order,* 20 FCC Rcd 10271, paragraph 46, published at 70 FR 37273, June 29, 2005, whereby each Internet-based TRS provider would be required to obtain from its customers, prior to the initiation of service, the physical location from which the particular relay service will be utilized, so that a CA may determine an appropriate PSAP to call to respond in the event of an emergency. *VRS/IP Relay 911 NPRM,* 20 FCC Rcd at 19484–87, paragraphs 19–24 (citing *VoIP 911 Order,* 20 FCC Rcd at 10271, paragraph 46) (describing Registered Location process for interconnected VoIP providers). Noting that the *VoIP 911 Order* had further required interconnected VoIP providers to offer their consumers a method of updating their ''Registered Location,'' the Commission sought comment on how it might ensure that Internet-based TRS providers have current location information, *i.e.*, that the Registered Location is the actual location of the user when making an emergency call. *VRS/IP Relay 911 NPRM,* 20 FCC Rcd at 19485, paragraph 21 (citing *VoIP 911 Order,* 20 FCC Rcd at 10271, paragraph 46) (requiring providers of interconnected VoIP services that can be utilized from more than one physical location to provide their end users ''one or more methods of updating information regarding the user's physical location'')); *see also* 47 CFR 9.5(d)(2) of the Commission's rules (''[I]nterconnected VoIP service providers must * * * [p]rovide their end users one or more methods of updating their Registered Location, including at least one option that requires use only of the CPE necessary to access the interconnected VoIP service. Any method utilized must allow an end user to update the Registered Location at will and in a timely manner.''). The Commission asked, for example, if users should be required to affirmatively acknowledge whether they are at their Registered Location each time they initiate a call and, if they are not at their Registered Location, be prompted or required to provide their present location. *VRS/IP Relay 911 NPRM,* 20 FCC Rcd at 19485, paragraph 21; cf. *VoIP 911 Order,* 20 FCC Rcd at 10271, paragraph 46 (any method utilized by an interconnected VoIP provider to update a customer's Registered Location must allow an end user to do so ''at will and in a timely manner''), 20 FCC Rcd at 10273, paragraph 49 (noting that ''customers of portable interconnected VoIP services likely will need to be instructed on how to register their locations with their providers, the need to update that information promptly when they relocate, and how to confirm that the registration is effective'').

6. In response to the *VRS/IP Relay 911 NPRM,* all of the commenting providers asserted that they presently do not have

the technological means of automatically obtaining identifiable location information from VRS and IP Relay callers. At that point in time, providers stated that they had been working on a technological solution for emergency access through Internet-based TRS services, but they required additional time to find a solution. The Commission also notes that the 2007 waiver reports filed by VRS and IP Relay providers state that presently it is not technologically feasible to automatically route emergency calls to an appropriate PSAP. *See generally 2004 TRS Report and Order,* 19 FCC Rcd at 12520–22, paragraphs 111, 116–18 (conditioning waivers of the TRS mandatory minimum standards on the filing of annual reports addressing waived standards). Although commenters generally opposed Commission adoption of a Registered Location process, similar to that adopted in the *VoIP 911 Order,* others expressed qualified support for it. Likewise, a majority of commenters opposed the proposed adoption of a procedure for updating a customer's Registered Location information that would require Internet-based TRS callers to acknowledge their location at the beginning of every call, a minority of commenters expressed qualified support for such a requirement, provided that a user is offered the option to update his or her location at the start of each call, but then need not do anything if there has been no change in the caller's previously registered location.

7. On November 15, 2006, the Commission held an E911 disability access summit (E911 Summit) to discuss advances in E911 calling technology and E911 access for persons with hearing and speech disabilities, including via VRS and IP Relay. *FCC Releases Agenda for November 15 E9–1–1 Disability Access Summit,* News Release (November 13, 2006). During the E911 Summit, Internet-based TRS providers noted that technology had not yet been developed to allow them to immediately place the outbound leg of an Internet-based TRS emergency call to the appropriate PSAP. They also explained the interim methods being used to handle emergency VRS and IP Relay calls, even though this requirement is waived.

Discussion

8. In FCC 08–78, the Commission takes action to ensure that users of the Internet-based forms of TRS can better rely on these services to make emergency calls. The Commission does not believe that the continued waiver of the emergency call handling requirement can be justified when balanced against the obvious public safety benefits derived from ensuring reliable 911 access.

A. Emergency Call Handling Requirements for Internet-Based TRS Providers

9. In light of the present imperative to provide Internet-based TRS users a reliable means of accessing emergency services, the Commission concludes that the waivers of the emergency call handling requirement for VRS, IP Relay, and IP CTS should terminate contemporaneously with the effective date of FCC 08–78 on May 21, 2008. In addition, at that time (*i.e.*, May 21, 2008), the Commission requires VRS, IP Relay, and IP CTS providers to accept and handle emergency calls and to access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location, and to relay the call to that entity. Further, providers will be required to: (1) Implement a system that ensures that they answer an incoming emergency call before other non-emergency calls (*i.e.*, prioritize emergency calls and move them to the top of the queue); (2) request, at the beginning of every emergency call, the caller's name and location information (in time, this requirement will be superseded by the Registered Location process, discussed herein); (3) deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of the call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected; and (4) in the event one or both legs of the call are disconnected (*i.e.*, either the call between the TRS user and the CA, or the outbound voice telephone call between the CA and the PSAP, designated statewide default answering point, or appropriate local emergency authority), immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call, when feasible. The Commission recognizes that, in some instances, the CA may not be able to call back a TRS customer using one of the Internet-based forms of TRS because the CA will not know the current IP address of the relay customer. The Commission urges Internet-based TRS providers to give their customers the option of providing an alternative method of re-establishing contact with the caller to facilitate a callback in the event that an emergency call is disconnected. The Commission also notes that, in this context, providers are expressly permitted to contact consumers directly, notwithstanding any prohibitions regarding contacts with consumers as described in other Commission orders. *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket No. 03–123, Report and Order and Declaratory Ruling, FCC 07–186, paragraph 95 (November 19, 2007), published at 73 FR 3197, January 17, 2008 (placing restrictions on use of consumer or call database information to contact TRS users).

10. Based on the record in this proceeding, which reflects that some providers have already implemented some of these measures, the Commission believes it is reasonable for all providers to comply with these requirements by the effective date announced here. The Commission affirms that providers' costs of compliance with FCC 08–78 are compensable from the Interstate TRS Fund as part of providing TRS service in compliance with the mandatory minimum standards. The Commission reminds providers, however, that costs are not recoverable for meeting waived mandatory minimum standards. *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities,* CG Docket No. 03–123, Order on Reconsideration, 21 FCC Rcd 8050, 8057, paragraph 15 (July 12, 2006) (*2006 TRS Order on Reconsideration*), published at 71 FR 47141, August 16, 2006. The Commission amends its rules to reflect these new requirements.

11. In the event that a relay caller is incapacitated or is otherwise unable or unwilling to provide their name and location, the provider should use best efforts to obtain it, including providing to an appropriate PSAP, designated statewide answering point, or appropriate local emergency authority, any location information that a customer may have on file with the provider in connection with his or her ''customer profile.'' The Commission notes that some (but not all) TRS consumers file customer profiles

detailing the customer's preferences with respect to particular aspects of a provider's relay service (*e.g.*, designating a preference regarding the gender of the CA who relays the customer's TRS calls). To the extent that the customer profile includes location information, this information may assist a CA in identifying an appropriate PSAP, designated statewide answering point, or appropriate local emergency authority. (The Commission emphasizes that a provider must use best efforts to handle an emergency call and place the outbound leg of such a call, even if the calling party refuses to provide his or her identity.) Further, on an interim basis, the requirement to deliver emergency calls permits VRS, IP Relay, and IP CTS providers to route 911 calls to PSAPs' ten-digit administrative lines. Upon the effective date of the forthcoming Registered Location requirement discussed herein, however, all Internet-based TRS calls must be routed through the Wireline E911 Network. *See VoIP 911 Order*, 20 FCC Rcd at 10270 paragraph 42 and note 142 (requiring interconnected VoIP providers to transmit 911 calls to the appropriate PSAP via the Wireline E911 Network).

12. The Commission recognizes that there are different ways by which providers may ensure that emergency calls receive priority handling and are not put in a queue with all incoming calls to wait for an available CA to handle the call. Some providers note, for example, that they would use a separate IP access address dedicated for emergency calls only. The Commission does not mandate a specific means by which providers must give priority to, and answer, emergency calls, so long as such calls are handled in accordance with the requirements set forth above.

13. The Commission's Consumer & Governmental Affairs Bureau has previously advised TRS providers of their obligation to handle incoming calls in the order in which they are received. *See FCC Clarifies that Certain TRS Marketing and Call Handling Practices are Improper*, CC Docket No. 98–67, CG Docket No. 03–123, Public Notice, DA 05–141 (released January 26, 2005), at 3, published at 70 FR 8034, February 17, 2005. The Bureau issued this advisory in response to complaints that certain TRS providers were selectively handling non-emergency calls placed by preferred customers ahead of non-emergency calls placed by other, non-preferred customers. In that context, the Bureau determined that the selective handling of incoming calls was improper and inconsistent with the notion of functional equivalency. The Commission clarifies here that the obligation to handle incoming calls in the order in which they are received applies to non-emergency calls only and that, under the call handling rules the Commission adopts, providers are under an affirmative obligation to ensure that emergency calls receive priority handling. Because of the importance of emergency call handling, the Commission expects that providers will ensure adequate staffing of emergency call handling processes so that CAs are not required to disconnect non-emergency calls in order to process emergency calls.

14. Based on the record before us, it appears that some Internet-based TRS providers presently accept and handle emergency calls made via VRS or IP Relay by asking the caller for location and other essential information necessary to identify, and make the outbound call to, an appropriate PSAP. In this regard, several VRS providers assert that as long as the providers obtain the location information from the calling party, they can route the call to an appropriate PSAP based upon PSAP databases that are commercially available.

15. In conjunction with the requirement that a CA request, at the beginning of an emergency call, the name and location information of the relay user placing the call, the Commission permits a CA to memorialize the caller's name and location information in writing for the purposes of communicating this information to an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority, and facilitating access to emergency services. The Commission also permits a CA to retain such information after the call, where necessary to facilitate the dispatch of emergency services or for other emergency (*e.g.*, where a relay caller becomes incapacitated while placing a relay call) or law enforcement purposes. The Commission notes that section 225(d)(1)(F) of the Act and § 64.604(a)(2) of the Commission's TRS rules generally prohibit a CA from keeping records of the ''content'' of a relay conversation beyond the duration of a call. *See* 47 U.S.C. 225(d)(1)(F) of the Act (instructing the Commission to prescribe regulations prohibiting relay operators from keeping records of the content of any conversation beyond the duration of the call); 47 CFR 64.604(a)(2)(i) of the Commission's rules (prohibiting relay operators from keeping records of the content of any conversation beyond the duration of the call). With respect to these provisions, the Commission concludes that the ''content'' of a relayed conversation reasonably does not include basic identifying information, such as the name and present location of an emergency TRS caller. Consistent with this interpretation, the Commission permits a CA to memorialize in writing, and retain records pertaining to, the name and location of a consumer who places an emergency call via an Internet-based TRS provider. The Commission reminds providers, however, that even this information may be made available only to emergency call handlers, and emergency response or law enforcement personnel solely for the purpose of ascertaining a customer's location in an emergency situation or for other emergency or law enforcement purposes.

16. Finally, the Commission notes that at least two Internet-based TRS providers have requested that the Commission exempt these providers from liability resulting from their handling of emergency TRS calls to the same extent Congress has insulated wireline and wireless carriers from liability in connection with those carriers' handling of emergency 911 and E911 calls. As the Commission stated in the interconnected VoIP context, before it would consider taking any action to preempt liability under state law, the Commission would need to demonstrate that limiting liability is ''essential to achieving the goals of the Act.'' To its knowledge, no commenter contends here that such action is ''essential'' to achieving the goals of the Act. Nor has any commenter identified a source of authority for providing liability protection to Internet-based TRS providers. For the reasons the Commission denied requests to limit the liability of interconnected VoIP providers in the *VoIP 911 Order*, the Commission similarly declines to limit the liability of Internet-based TRS providers in connection with their handling of emergency TRS calls. *VoIP 911 Order*, 20 FCC Rcd at 10275, paragraph 54 (noting that Congress had enacted no liability protection for interconnected VoIP providers, the Commission declined to adopt such protections and would not consider doing so unless such action were deemed to be ''essential to achieving the goals of the Act''). Although Congress has provided limited liability protections to local exchange carriers and wireless carriers, it has not done so for Internet-based TRS providers. *See* Wireless Communications and Public Safety Act of 1999, Public Law 106–81, 113 Stat. 1286 (1999) (*911 Act*); 47

U.S.C. 615a; *911 Act* section 4 (providing wireless carriers same degree of liability protection relating to 911 service as local exchange carriers). The Commission notes that in the *VoIP 911 Order*, the Commission advised interconnected VoIP providers seeking to protect themselves from liability for negligence to do so through ''their customer contracts and through their agreements with PSAPs, as some interconnected VoIP providers have done.'' Nothing in FCC 08–78 prevents Internet-based TRS providers from taking similar actions. In particular, nothing the Commission does here would prevent a TRS provider from incorporating into their consumer notification or future registration processes described herein, the same protections that interconnected VoIP providers typically include in their subscription agreements with consumers.

17. As noted above, the Commission is adopting these requirements to help facilitate access to emergency services for consumers of Internet-based relay services, pending the adoption of a longer term solution. These requirements will become effective May 21, 2008, and the Commission extends the present VRS and IP Relay emergency call handling waivers, previously scheduled to expire after December 31, 2007, such that those waivers, along with the IP CTS emergency call handling waiver, will remain in effect until May 21, 2008.

B. Transition to Additional E911 Capabilities for Internet-Based Forms of TRS

18. The Commission believes that the use of a Registered Location process, similar to that adopted in the *VoIP 911 Order*, constitutes an additional critical component of an E911 solution for Internet-based TRS providers, so that a CA may promptly determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority to call to respond to the emergency. Accordingly, as the Commission requires of all interconnected VoIP providers, the Commission will require in a forthcoming order that all Internet-based TRS providers obtain or have access to consumer location information for the purposes of emergency calling requirements.

19. As the Commission has stated previously, the goal of its E911 rules is to provide meaningful location information to first responders, regardless of the technology or platform employed. *See, e.g., 2007 Wireless E911 NPRM*, 22 FCC Rcd at 10609, paragraph 6. Public safety officials need to receive accurate and timely information concerning the current location of an individual who places an emergency call, notwithstanding the platform or technology used by the provider or the means by which the individual places the call. The Commission believes that user registration is critical to achieving the goal of providing location identification to first responders in the context of emergency calls placed over Internet-based TRS. As noted above, providers' costs of compliance with FCC 08–78 are compensable from the Interstate TRS Fund as part of providing TRS service in compliance with the mandatory minimum standards, but costs associated with meeting waived mandatory minimum standards are not recoverable from the fund. Accordingly, the registration process the Commission outlines today, in large part, will be guided by the manner in which interconnected VoIP providers obtain location information of interconnected VoIP users pursuant to the Commission's *VoIP 911 Order*. However, the Commission recognizes, as some commenters have noted, that there are differences between interconnected VoIP services and Internet-based TRS that must be addressed in adopting a registration process for Internet-based TRS users. For example, while interconnected VoIP subscribers receive a ten-digit telephone number in conjunction with the service, Internet-based TRS users currently do not. Accordingly, the Commission will adopt a ten-digit numbering plan in a future Commission order that ties numbering to the registration process and renders relay providers' situation more analogous to that of interconnected VoIP providers.

20. The Commission plans to move forward on adopting a ten-digit numbering plan in an expeditious manner. Specifically, simultaneously with the Commission's release of FCC 08–78, the Commission's Consumer & Governmental Affairs Bureau is releasing a public notice seeking to refresh the record on relay service numbering issues. *See 2008 Numbering PN*. The Commission plans to hold a stakeholder workshop immediately following the release of these items. The Commission commits to completing a final order on a ten-digit numbering plan in the second quarter of this year. In order to provide stakeholders sufficient time to implement these rules, the Commission will require that the ten-digit numbering plan be implemented no later than December 31, 2008.

21. *Consumer Notification Requirement*. VRS providers currently are required to include ''a clear and bold written statement on their web site and promotional materials explaining the shortcomings and potential dangers of using VRS to place an emergency call'' so that those making a 911 call over TRS facilities understand the implications of making such a call, particularly in the context of the Commission's encouragement to TRS users to access emergency services directly. In the *VoIP 911 Order*, the Commission required interconnected VoIP service providers to ''specifically advise every subscriber, both new and existing, prominently and in plain language, [of] the circumstances under which E911 service may not be available.'' *VoIP 911 Order*, 20 FCC Rcd at 10272, paragraph 48. The Commission also required interconnected VoIP providers to ''obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory'' and to distribute labels ''warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on and/or near the CPE used in conjunction with the interconnected VoIP service.'' In light of these requirements for interconnected VoIP providers, the Commission's *VRS/IP Relay 911 NPRM* sought comment on whether the Commission's current consumer notification requirements for Internet-based TRS providers should be revised, for example, to require that providers specifically advise new and existing subscribers of the circumstances under which E911 service may not be available through Internet-based forms of TRS or may be in some way limited by comparison to traditional E911 service. *VRS/IP Relay 911 NPRM*, 20 FCC Rcd at 19486, paragraph 22. The Commission also sought comment on whether Internet-based TRS providers should be required to provide appropriate warning labels for installation on CPE used in connection with Internet-based relay services or to obtain and keep a record of affirmative acknowledgement by every subscriber of having received and understood this advisory.

22. Consistent with the *VoIP 911 Order*, the Commission requires each Internet-based TRS provider, if not already doing so, to include an advisory on its Web site and in any promotional materials directed to consumers, prominently and in plain language, explaining the circumstances under which emergency calls made via Internet-based TRS may be in some way

limited by comparison to traditional E911 service. The Commission believes it is important to caution consumers of the limitations of using the Internet-based forms of TRS to make emergency calls in the event that a caller does place an emergency call via an Internet-based relay service. In addition, the Commission may address additional consumer notification requirements in a forthcoming order, consistent with the consumer notification requirements adopted in the *VoIP 911 Order*, as appropriate.

23. *Enhanced 911 Service.* In the *VoIP 911 Order,* the Commission required interconnected VoIP providers to transmit all E911 calls to the appropriate PSAP, designated statewide answering point, or appropriate local emergency authority via the Wireline E911 Network, and prohibited the use of so-called ten-digit ''administrative numbers.'' *See VoIP 911 Order,* 20 FCC Rcd at 10266–69, paragraphs 37–41 (requiring interconnected VoIP providers to transmit all E911 calls via the Wireline E911 Network). The Commission defined ''Wireline E911 Network'' as a ''dedicated wireline network that (1) is interconnected with but largely separate from the public switched telephone network, (2) includes a selective router, and (3) is utilized to route emergency calls and related information to PSAPs, designated statewide default answering points, appropriate local emergency authorities or other emergency answering points.'' 47 CFR 9.3 of the Commission's rules (defining Wireline E911 Network). In a typical implementation, the Wireline E911 Network includes the Selective Router, which receives 911 calls from competitive and incumbent LEC central offices over dedicated trunks. The Selective Router, after querying an incumbent LEC-maintained Selective Router Database (SRDB) to determine which PSAP serves the caller's geographic area, forwards the calls to the PSAP that has been designated to serve the caller's area, along with the caller's phone number (ANI). The PSAP then forwards the caller's ANI to an incumbent LEC maintained Automatic Location Information database (ALI Database), which returns the caller's physical address (that has previously been verified by comparison to a separate database known as the Master Street Address Guide (MSAG)). The Wireline E911 Network thus consists of: the Selective Router; the trunk line(s) between the Selective Router and the PSAP; the ALI Database; the SRDB; the trunk line(s) between the ALI database and the PSAP; and the MSAG. *VoIP 911 Order,* 20 FCC Rcd at 10252, paragraph 15 (citations omitted). The Commission required that all interconnected VoIP calls be routed through the dedicated Wireline E911 Network based on evidence in the record that use of ten-digit administrative numbers for routing E911 calls is not in the public interest to the extent that these numbers are not as reliable or consistently staffed as Wireline E911 Network call centers.

24. Consistent with the *VoIP 911 Order,* the Commission expects that a forthcoming order will require that, upon the effective date of the forthcoming Registered Location requirement, an Internet-based TRS provider must transmit all 911 calls via the dedicated Wireline E911 Network, and the Registered Location must be available from or through the ALI Database. By requiring that all 911 calls be routed via the dedicated Wireline E911 Network, Internet-based TRS service providers would provide E911 service in those areas where Selective Routers are utilized and they would provide such call back and location information as a PSAP, designated statewide default answering point, or appropriate local emergency authority is capable of receiving and utilizing. The Commission expects that providers will be able to use much of the same infrastructure and technology that is already in place for the delivery of 911 calls by interconnected VoIP service providers.

Conclusion

25. Because of the importance of emergency call handling for all Americans, in FCC 08–78, the Commission adopts interim emergency call handling requirements for Internet-based TRS providers. These measures will ensure that persons using Internet-based forms of TRS can promptly access emergency services pending the development of a technological solution that will permit Internet-based TRS providers to automatically determine the geographic location of the consumer and place the outbound leg of an emergency call to an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority. These actions reinforce the Commission's longstanding and continuing commitment to make available a nationwide communications system that promotes the safety and welfare of all Americans, including individuals with hearing and speech disabilities.

Final Regulatory Flexibility Certification

26. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for 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(b). The RFA generally defines ''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 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. 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). Small Business Act, 15 U.S.C. 632.

27. FCC 08–78 adopts emergency call handling requirements for Internet-based TRS providers. These measures will ensure that persons using Internet-based TRS services can promptly access emergency services. The Commission requires VRS, IP Relay, and IP CTS providers to accept and handle emergency calls and to access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location, and to relay the call to that entity. Further, FCC 08–78 requires that providers: (1) Implement a system that ensures that providers answer an incoming emergency call before other non-emergency calls; (2) request, at the beginning of every emergency call, the caller's name and location information; (3) deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of the call, at a minimum, the name of the relay user and location of the

emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected; and (4) in the event one or both legs of the call are disconnected, immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call, when feasible. Finally, FCC 08–78 requires each Internet-based TRS provider to include an advisory on its web site and in any promotional materials directed to consumers, prominently and in plain language, explaining the circumstances under which emergency calls made via Internet-based TRS may be in some way limited by comparison to traditional E911 service.

28. To the extent that all Internet-based TRS providers, including small entities, will be eligible to receive compensation from the Interstate TRS Fund for their reasonable costs of complying with these emergency call handling and consumer notification requirements, the Commission finds that these requirements will not have a significant economic impact on a substantial number of small entities. The Commission also believes it is reasonable for Internet-based TRS providers to comply with these requirements by May 21, 2008 because based on the record in this proceeding, some providers have already implemented some of these measures. For instance, several providers assert that as long as the providers obtain location information from the calling party, they can route an emergency call to an appropriate PSAP based upon PSAP databases that are commercially available. The Commission infers that, if such voluntary steps had been unduly economically burdensome for small entities, such entities would not have undertaken them voluntarily. For all of these reasons, the Commission concludes that these measures will not have a significant economic impact on a substantial number of small businesses.

29. With regard to whether a substantial number of small entities may be affected by the requirements adopted in FCC 08–78, the Commission notes that, of the 11 providers affected by FCC 08–78, only three meet the definition of a small entity. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consist of all such firms having 1,500 or fewer employees. 13 CFR 121.201, NAICS code 517110. 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 October 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, eleven providers receive compensation from the Interstate TRS Fund for providing VRS, IP Relay and IP CTS: AT&T Corp.; Communication Access Center for the Deaf and Hard of Hearing, Inc.; GoAmerica; Hamilton Relay, Inc.; Hands On; Healinc; Nordia Inc.; Snap Telecommunications, Inc; Sorenson; Sprint; and Verizon. Because only three of the providers affected by FCC 08–78 are deemed to be small entities under the SBA's small business size standard, the Commission concludes that the number of small entities affected by its decision in FCC 08–78 is not substantial. Moreover, given that all affected providers, including the three that are deemed to be small entities under the SBA's standard, will be entitled to receive prompt reimbursement for their reasonable costs of compliance, the Commission concludes that FCC 08–78 will not have a significant economic impact on these small entities.

30. Therefore, for all of the reasons stated above, the Commission certifies that the requirements of FCC 08–78 will not have a significant economic impact on any small entities.

31. The Commission will send a copy of FCC 08–78, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, FCC 08–78 and this final certification will be sent to the Chief Counsel for Advocacy of the SBA.

Congressional Review Act

The Commission will send a copy of FCC 08–78 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 225, FCC 08–78 is adopted.

Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 225, part 64 of the Commission's rules, 47 CFR part 64 is amended.

FCC 08–78 shall become effective May 21, 2008. The waivers of the emergency call handling requirement for VRS and IP Relay providers are extended until the effective date of FCC 08–78, and, along with the waiver for IP CTS providers, shall terminate on May 21, 2008.

The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of FCC 08–78, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 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.

§§ 64.603 and 64.604 [Amended]

■ 2. Remove the internal cross-references to ''§ 64.605'' and add in its place ''§ 64.606'' in the following locations:

■ (a) 64.603(a)
■ (b) 64.603(b)
■ (c) 64.604(c)(5)(ii)
■ (d) 64.604(c)(5)(iii)(F)(1)
■ (e) 64.604(c)(5)(iii)(F)(4)
■ (f) 64.604(c)(6)(i)
■ (g) 64.604(c)(6)(iii)(B)

■ 3. Section 64.604 is amended by revising paragraph (a)(4) to read as follows:

§ 64.604 Mandatory Minimum Standards.

* * * * *

(a) * * *

(4) Emergency call handling requirements for TTY-based TRS providers. TTY-based TRS providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to an appropriate Public Safety Answering Point (PSAP). An appropriate PSAP is either a PSAP that the caller would have reached if he had dialed 911 directly, or a PSAP that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner.

* * * * *

§§ 64.605 through 64.608 [Redesignated as §§ 64.606 through 64.609]

■ 4. Sections 64.605, 64.606, 64.607, and 64.608 are re-designated as §§ 64.606, 64.607, 64.608, and 64.609, and a new §§ 64.605 is added as follows:

§ 64.605 Additional Operational Standards Applicable to Internet-Based TRS Providers.

Each VRS, IP Relay, and IP CTS provider must accept and handle emergency calls and access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location, and to relay the call to that entity. The terms PSAP, statewide default answering point, and appropriate local emergency authority are defined in § 9.3 of this chapter. Each VRS, IP Relay, and IP CTS provider also is required to:

(a) Implement a system that ensures that the provider answers an incoming emergency call before other non-emergency calls (*i.e.*, prioritize emergency calls and move them to the top of the queue);

(b) Request, at the beginning of each emergency call, the caller's name and location information;

(c) Deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of an emergency call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected; and

(d) In the event one or both legs of an emergency call are disconnected (*i.e.*, either the call between the TRS user and the CA, or the outbound voice telephone call between the CA and the PSAP, designated statewide default answering point, or appropriate local emergency authority), immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call, when feasible;

(e) Ensure that information obtained as a result of this section is limited to that needed to facilitate 911 services, is made available only to emergency call handlers and emergency response or law enforcement personnel, and is used for the sole purpose of ascertaining a customer's location in an emergency situation or for other emergency or law enforcement purposes.

* * * * *

§ 64.609 [Amended]

■ 5. In the text of the newly re-designated § 64.609, remove the internal cross-reference to ''§ § 64.606 and 64.607'' and add in its place ''§ § 64.607 and 64.608.''

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