

unresolved they may be referred to the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau within thirty days of the Transition Administrator's, or other mediator's recommended decision or advice. When referring an unresolved matter to the Chief of the Public Safety and Critical Infrastructure Division, the Transition Administrator shall forward the entire record on any disputed issues, including such dispositions thereof that the Transition Administrator has considered. Upon receipt of such record and advice, the Commission will decide the disputed issues based on the record submitted. The authority to make such decisions is delegated to the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau who may decide the disputed issue or designate it for an evidentiary hearing before an Administrative Law Judge. If the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau decides an issue, any party to the dispute wishing to appeal the decision may do so by filing with the Commission, within ten days of the effective date of the initial decision, a Petition for de novo review; whereupon the matter will be set for an evidentiary hearing before an Administrative Law Judge. Any disputes submitted to the Transition Administrator after the conclusion of the mandatory negotiation period as described in § 90.677(c) shall be resolved as described in § 90.677(d)(2).

(2) If no agreement is reached during either the voluntary or mandatory negotiating periods, all disputed issues shall be referred to the Transition Administrator who shall attempt to resolve them. If disputed issues remain thirty working days after the end of the mandatory negotiation period, the Transition Administrator shall forward the record to the Chief of the Public Safety and Critical Infrastructure Division, together with advice on how the matter(s) may be resolved. The Chief of the Public Safety and Critical Infrastructure Division is hereby delegated the authority to rule on disputed issues, de novo. If the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau decides an issue, any party to the dispute wishing to appeal the decision may do so by filing with the Commission, within ten days of the effective date of the initial decision, a Petition for de novo review; whereupon the matter will be set for an

evidentiary hearing before an Administrative Law Judge.

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■ 16. In § 90.685 paragraph (e) is added to read as follows:

§ 90.685 Authorization, construction and implementation of EA licenses.

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(e) EA licensees operating on channels listed in § 90.614(b) and (c) must implement an Enhanced Specialized Mobile Radio (ESMR) system—as defined in § 90.7—on their EA license and any associated site-based licenses prior to the expiration date of the EA license. EA licensees operating on these channels shall follow the construction notification procedures set forth in § 1.946(d) of this chapter. Failure to implement an ESMR system on their EA and site-based licenses before the expiration date of the EA license will result in termination of the EA license and any associated site-based licenses pursuant to § 1.946(c) of this chapter.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03-123; DA 05-3139]

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

AGENCY: Federal Communications Commission.

ACTION: Final rule; expiration of waiver.

SUMMARY: In this document, the Commission extends for an additional year the waiver of the emergency (911) call handling requirement for providers of Video Relay Service (VRS). The Commission extends the waiver for one year in view of continued technological challenges to determining the geographic location of telecommunications relay service (TRS) calls that originate via the Internet, and the VRS 911 NPRM addressing the issue.

DATES: The waiver of the emergency (911) call handling requirement will expire on January 1, 2007, or upon the release of an order addressing the VRS emergency (911) call handling issue, whichever comes first.

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SUPPLEMENTARY INFORMATION: On December 31, 2001, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Waiver Order*, DA 01-3029, CC Docket No. 98-67, 17 FCC Rcd 157 (2001), granting VRS providers a waiver until December 31, 2003, of certain TRS mandatory minimum standards, including the emergency call handling requirement. On December 19, 2003, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order*, DA 03-4029, CC Docket No. 98-67, 18 FCC Rcd 26309 (2003), extending the waiver to June 30, 2004. On June 30, 2004, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, 2004 TRS Report and Order*, FCC 04-137, CC Docket No. 98-67, which published in the **Federal Register** on September 1, 2004 (69 FR 53382) again extending the waiver until January 1, 2006. This is a summary of the Commission's *Order* DA 05-3139, adopted December 2, 2005, released December 5, 2005. 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 & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). The Commission's *Order* DA 05-3139 can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb.dro>.

Synopsis

The Commission's TRS regulations set forth operational, technical, and functional mandatory minimum standards applicable to the provision of TRS. See 47 CFR 64.604 (the TRS "mandatory minimum standards"). These standards apply to all forms of TRS when they are offered, unless they are waived. Therefore, to be eligible for reimbursement from the Interstate TRS Fund for the provision of TRS, the provider must meet all applicable non-waived mandatory minimum standards. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking (*Improved TRS Order and FNPRM*), FCC 00-56, CC Docket No. 98-67, which

published in the **Federal Register** on June 21, 2000 (65 FR 38432).

The TRS mandatory minimum standards require TRS providers to handle emergency calls. See 47 CFR 64.604(a)(4) (requiring TRS providers to automatically and immediately transfer emergency calls to an appropriate public safety answering point (PSAP)); *2004 TRS Report and Order*, 19 FCC Rcd at 12521, paragraph 116. The Commission has recognized that, although persons with hearing and speech disabilities should generally make emergency calls directly to the PSAP by calling 911 (e.g., via a TTY), many such individuals use TRS to contact emergency services.

In March 2000, the Commission recognized VRS as a form of TRS eligible for compensation from the Interstate TRS Fund. See *Improved TRS Order and FNPRM*, 15 FCC Rcd 5152–5154, paragraphs 21–27. On December 31, 2001, the Commission granted VRS providers a waiver until December 31, 2003, of certain TRS mandatory minimum standards, including the emergency call handling requirement. This waiver was ultimately extended to January 1, 2006. See *2004 TRS Report and Order*, 19 FCC Rcd 12522, paragraph 118.

On November 30, 2005, the Commission released the *VRS 911 NPRM*, seeking comment on how providers of the Internet-based TRS services, including VRS, may determine the appropriate PSAP to contact when they receive an emergency call. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Access to Emergency Services*, Notice of Proposed Rulemaking (*VRS 911 NPRM*), FCC 05–196, CG Docket No. 05–123. The Commission noted the importance of emergency access for VRS users and the necessity to find a means to ensure that VRS calls seeking emergency assistance can be promptly routed to the appropriate emergency service provider. *VRS 911 NPRM*, at paragraphs 1–2, 18.

Discussion

The Commission may waive a provision of its rules for “good cause shown.” 47 CFR 1.3; see generally *2004 TRS Report and Order*, 19 FCC Rcd 12520, paragraph 110 (discussing standard for waiving Commission rules). In view of the continued technological challenges to determining the geographic location of TRS calls originating via the Internet, including VRS calls, as well as the recently released *VRS 911 NPRM* seeking comment on this issue, the Commission

finds good cause exists to extend the waiver of the emergency call handling requirement for VRS providers until January 1, 2007 or upon the release of an order addressing the emergency (911) call handling issue, whichever comes first. This waiver, like the previous waivers, is conditioned upon the filing of annual reports, due each April 16th, addressing whether it is necessary for the waiver to remain in effect. See *2004 TRS Report and Order*, 19 FCC Rcd 12520–12521, paragraph 111 (detailing required contents of annual waiver reports). The Commission notes that in the 2005 annual reports the VRS providers agreed that it is not technologically feasible to automatically route emergency calls to the appropriate PSAP, because they do not obtain location information from the VRS user initiating the call via the Internet. See AT&T Corp., 2005 Annual Report on TRS Waivers at 2 (filed on April 18, 2005); Communications Access Center for the Deaf and Hard of Hearing, 2005 Annual Report on Progress of Meeting Waived Requirements at 1–2 (undated); Hamilton Relay, Inc., 2005 Annual Report Concerning IP Relay and VRS at 1–3 (filed on April 15, 2005); Hands On Video Relay Services, Inc., 2005 Annual Report on Progress of Meeting Waived Requirements at 2–3; MCI, 2005 Report on the Status of Waived IP-Relay and Video Relay Services at 11–12 (filed on April 16, 2005); Sorenson Media, Inc., 2005 Annual Report on Status of Waived VRS Requirements at 1–3 (filed on April 15, 2005); Sprint Corporation, 2005 Annual Internet Relay and Video Relay Service Progress Report at 2 (filed on April 14, 2005). Accordingly, the emergency call handling waiver for VRS will expire on January 1, 2007, or upon the release of an order addressing this issue, whichever comes first.

Ordering Clause

Pursuant to the authority contained in Sections 0.141, 0.361, 1.3 of the Commission rules, 47 CFR 0.141, 0.361, 1.3, the Order *is adopted*.

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050613158–5262–03; I.D. 090105A]

RIN 0648–AT48

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin That Causes Paralytic Shellfish Poisoning

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

ACTION: Temporary rule; emergency action; extension of effective period.

SUMMARY: The regulations contained in the temporary rule, emergency action, published on October 18, 2005, at the request of the U.S. Food and Drug Administration (FDA), which are scheduled to expire on December 31, 2005, are extended through June 30, 2006. In the October 18, 2005, action, NMFS reinstated and corrected the temporary regulations published on September 9, 2005, which reopened a portion of Federal waters of the Gulf of Maine, Georges Bank, and southern New England that it had previously closed from June 14 through September 30, 2005, to the harvest for human consumption of certain bivalve molluscan shellfish due to the presence in those waters of the toxin that causes Paralytic Shellfish Poisoning (PSP). The FDA has determined that there is insufficient analytical data to support the scheduled reopening of the entire area to all bivalve molluscan shellfish fishing on January 1, 2006.

DATES: The temporary emergency action published on October 18, 2005 (70 FR 60450), is effective from October 18, 2005, through June 30, 2006.

ADDRESSES: Copies of the small entity compliance guide prepared for the October 18, 2005, reinstatement of the September 9, 2005, emergency action, are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. The small entity compliance guide/permit holder letter is also accessible via the Internet at <http://www.nero.noaa.gov>. Copies of the emergency rule and environmental assessment are available from Patricia