

**Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, FCC 03-112****SUPPORTING STATEMENT****A. Justification:**

1. Section 225 of the Communications Act of 1934, as amended (the Act), requires that:<sup>1</sup>

(a) The Commission ensures that telecommunications relay service (TRS)<sup>2</sup> is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities in the United States;<sup>3</sup> and

(b) TRS offers persons with hearing and speech disabilities telephone transmission services that are “functionally equivalent” to voice telephone services.<sup>4</sup>

47 C.F.R. Part 64, Subpart F implements certain provisions of the ADA pertaining to TRS. It contains the operational, technical, and functional standards required of all TRS providers and the procedures for certification.

***History:***

On April 22, 2002, the Commission released *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Clarification of WorldCom, Inc.*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (2002) (*2002 IP Relay Declaratory Ruling*), published at 67 FR 39863 and 67 FR 39929, June 11, 2002, concluding that IP Relay falls within the statutory definition of TRS.

On June 17, 2003, the Commission released *Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Americans with Disabilities Act of 1990*, CC Docket No. 98-67, CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379 (2003) (*2003 Second Improved TRS Order*), published at 68 FR 50993, August 25, 2003. In this order, the Commission required that TRS providers offer certain local exchange carrier (LEC)-based improved services and features where technologically feasible, several additional types of TRS calls, and other services and features through which consumers with varying needs, abilities, and preferences may access and use TRS. These mandatory minimum requirements included a speed dialing feature in 47 C.F.R. § 64.604(a)(3), which may entail voluntary recordkeeping for TRS providers to maintain a list of telephone numbers.

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<sup>1</sup> Section 225 was added to the Act by Title IV of the Americans with Disabilities Act of 1990 (ADA).

<sup>2</sup> TRS is a telephone transmission service that allows persons with a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. See 47 CFR § 64.601(14). TRS facilities are staffed by communications assistants who relay conversations between people with hearing or speech disabilities and hearing users.

<sup>3</sup> 47 U.S.C. § 225(b)(1).

<sup>4</sup> 47 U.S.C. § 225(a)(3).

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The Commission, however, waived the speed dialing requirement, among many other requirements, for Video Relay Service (VRS) and Internet Protocol (IP) Relay providers until January 1, 2008. In the interim, in a subsequent declaratory ruling, the Commission also permitted entities desiring to provide IP captioned telephone service (IP CTS) to seek certification from the Commission for eligibility to receive compensation from the Interstate TRS Fund (Fund). *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (2007), published at 72 FR 6960, February 14, 2007.

On December 26, 2007, the Commission's Consumer and Governmental Affairs Bureau (Bureau) extended most of the VRS and IP Relay mandatory minimum standards waivers for one year (*i.e.*, until January 1, 2009), including the speed dialing requirements for IP Relay, though it allowed others to expire, including the waiver of the speed dialing requirement for VRS.<sup>5</sup> On December 24, 2008, the Bureau released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 23 FCC Rcd 18334 (CGB 2008), in which it extended most of the VRS and IP Relay mandatory minimum standards waivers for another year, until January 1, 2010, though waiver of the speed dialing requirement for IP Relay expired on April 30, 2009.<sup>6</sup>

On December 12, 2005, the Commission released *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Order on Reconsideration, 20 FCC Rcd 20577 (2005) (2005 TRS Provider Certification Order), published at 70 FR 76208, December 23, 2005, which created another method for some TRS providers to become eligible to receive compensation from the Fund. Specifically, the *2005 TRS Provider Certification Order* amended the TRS regulations to permit a common carrier seeking to offer VRS or IP Relay and receive compensation from the Fund to apply to the Commission for certification as an entity providing these services in compliance with the TRS rules, and therefore eligible to receive reimbursement from the Fund. This certification procedure permitted common carriers desiring to offer VRS and IP Relay service, and not the other forms of TRS, to receive compensation from the Fund without having to meet one of the existing three eligibility criteria previously set forth in the rules.<sup>7</sup> The intent of the *2005 TRS Provider Certification Order* was, *inter alia*, to possibly reduce the cost of providing service, give consumers greater choice, and bring innovation to the provision of VRS and IP Relay, both with new equipment and new service features.

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<sup>5</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 22 FCC Rcd 21869 (CGB 2007), published at 73 FR 9031, February 19, 2008. Though the Commission has also waived various TRS requirements for IP CTS, these waivers are all for an indefinite period.

<sup>6</sup> The Commission has extended the TRS mandatory minimum standards waivers on two occasions, until July 1, 2011 and subsequently until July 1, 2012.

<sup>7</sup> Previously existing eligibility criteria include: (1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to 47 C.F.R. § 64.606; (2) TRS facilities owned by, or operated under contract with, a common carrier providing interstate services operated pursuant to 47 C.F.R. § 64.604; or (3) Interstate common carriers offering TRS pursuant to 47 C.F.R. § 64.604.

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In order to facilitate this Commission certification process, the *2005 TRS Provider Certification Order* imposed new information collection requirements that include the following:

- (a) 47 C.F.R. § 64.606(a)(2):<sup>8</sup> Providing documentation detailing: (1) a description of the forms of TRS to be provided, (2) a description of how the provider will meet all non-waived mandatory minimum standards applicable to each form of TRS offered, (3) a description of the provider's procedures for ensuring compliance with all applicable TRS rules, (4) a description of the provider's complaint procedures, (5) a narrative describing any areas in which the provider's service will differ from the applicable mandatory minimum standards, (6) a narrative establishing that services that differ from the mandatory minimum standards do not violate applicable mandatory minimum standards, (7) demonstration of status as a common carrier, and (8) a statement that the provider will file annual compliance reports demonstrating continued compliance with the rules.
- (b) 47 C.F.R. § 64.606(c)(2): A provider may apply for renewal of its certification by filing documentation with the Commission, at least 90 days prior to expiration of certification, containing the information described in 47 C.F.R. § 64.606(a)(2).
- (c) 47 C.F.R. § 64.606(e)(2): A provider must submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a certified provider may not be in compliance with the minimum standards and the Commission requests such information.
- (d) 47 C.F.R. § 64.606(f)(2): Providers certified under this section must notify the Commission of substantive changes in their TRS programs, services, and features within 60 days of when such changes occur, and must certify that the interstate TRS provider continues to meet federal minimum standards after implementing the substantive change.
- (e) 47 C.F.R. § 64.606(g): Providers certified under this section shall file with the Commission, on an annual basis, a report providing evidence that they are in compliance with 47 C.F.R. § 64.604.

On July 28, 2011, the Commission released *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 20 FCC Rcd 20577 (2011) (*2011 iTRS Certification Order*), published at 76 FR 47469, August 5, 2011, which modified the rules governing certification process to ensure that Internet-based TRS providers receiving certification are qualified to provide relay service in compliance with the Commission's rules, and to eliminate waste, fraud and abuse through improved oversight of such providers. The modified rules contain modified information collection requirements which were approved under OMB Control Number 3060-1150. The new approved information collection requirements replace the information collection requirements that were approved under OMB Control Number 3060-1047. Because the rules adopted in the *2005 TRS Provider Certification Order* were

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<sup>8</sup> These rules were originally codified as revisions to 47 C.F.R. § 64.605. Section 64.605, however, was redesignated as 47 C.F.R. § 64.606 pursuant to *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order, 23 FCC Rcd 5255 (2008), published at 73 FR 21252, April 21, 2008.

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amended by the *2011 iTRS Certification Order*, the information collection requirement for the **Commission's Certification Process** previously reported in March 2009 via this collection 3060-1047, has been replaced with the modified information collection requirements approved by the Office of Management and Budget (OMB) on October 20, 2011 under Control Number 3060-1150.

Therefore, the Commission is requesting OMB approval for a three year extension of the information collection requirement contained in the ***Speed Dialing Requirement***

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for this information collection 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.

2. The Commission allowed the waiver for the speed dialing requirement to expire because providers have demonstrated that it is technologically feasible to offer this feature. The Commission therefore requires that providers of IP Relay and VRS offer the speed dialing feature so that users would be able to use TRS that is functionally equivalent to a telephone service which is mandated under Section 225 of the Communications Act. Providers of IP Relay and VRS are required to maintain a list of telephone numbers in order to fulfill the speed dialing requirement which such feature is an integral component of a functionally equivalent telephone service. The Commission does not anticipate receiving this information from providers for its internal purpose.
3. The information collection requirements at issue here are mainly narratives which do not lend themselves to automation. The Commission, however, permits them to be submitted electronically. To the extent a provider voluntarily maintains a list of telephone numbers in order to fulfill the speed dialing requirement, the provider is free to employ any automated technique it wishes to reduce the burden.
4. There are comparable information collection requirements regarding the Commission's provider certification process previously reported in this collection 3060-1047, in which the Commission is now removing and placing under OMB control number 3060-1047, respectively, to avoid duplication.
5. While the Commission believes that the burdens associated with this collection are relatively minimal to begin with, as a practical matter, they are further minimized by the fact that at least the cost of maintaining a list of telephone numbers to support the speed dialing feature, as well as attendant costs of recordkeeping and reporting, may be included as expenses in calculating interstate TRS reimbursement rates. Therefore, there are no significant economic impacts on small businesses or small entities.
6. Providers who do not have a waiver of the speed dialing requirement may choose to maintain a list of telephone numbers in order to fulfill that requirement. Eliminating the voluntary collection associated with that requirement would diminish the alternatives available to providers for meeting the requirement, and may lead to greater costs to the TRS program. In addition, to the extent that providers satisfy the requirement in part through maintaining a list of telephone

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numbers, they are free to pursue other methods of satisfying the requirement that do not involve such recordkeeping.

7. These collections of information are not being conducted in any manner that is inconsistent with the guidelines of 5 C.F.R. § 1320.5(d).
8. On November 9, 2011, pursuant to 5 C.F.R. § 1320.8(d), the Commission published a notice in the *Federal Register* soliciting comment on the collections of information. See 76 FR 69737, November 9, 2011. The Commission received no comments in response to the notice.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting that respondents submit confidential information, and therefore is not providing assurances of confidentiality to respondents, pursuant to this collection. If the Commission requests that respondents submit information which the respondents believe is confidential, respondents may request confidential treatment of such information pursuant to 47 C.F.R. § 0.459.
11. There are no questions of a sensitive nature as part of these collections of information.
12. In order to avoid duplication with the Commission OMB collection 3060-1150, the Commission has removed from the information collection burden estimates associated with the reporting and recordkeeping requirements for the ***Commission's Internet-based TRS certification process***. In addition, for the remaining existing requirement associated with this information collection, the Commission has modified its estimates for the numbers of respondents, responses, annual burden hours, and annual in-house costs to more accurately account for them.

***Speed Dialing Requirement***

47 C.F.R. § 64.604(a)(3) – Recordkeeping for the speed dialing feature:

The Commission estimates approximately 23 TRS providers (respondents) voluntarily will maintain a list of telephone numbers for this feature, and further that this process will require each such provider approximately 5 hours per year to complete.

23 respondents x 1 list/respondent/yr = 23 lists/yr (responses)

23 respondents x 5 hrs/respondent to maintain lists = 115 hrs

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to a GS-12/5 (\$40.66, plus 30% overhead (\$12.20)) to maintain a list of telephone numbers. Therefore, the Commission estimates respondents’ costs to be about \$52.86 per hour.

23 respondents x 5 hrs/respondent x \$52.86/hr = \$6,078.90

**Annual Totals:**

**Total number of respondents:** 23 respondents

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**Total number of responses:** 23 responses

**Total annual hourly burden:** 115 hours

**Total “in-house” cost:** \$6,078.90

13. The only potential “outside” cost burden to respondents could be for software related to the maintaining of telephone number lists pursuant to the speed dialing requirement of 47 C.F.R. § 64.604(a)(3). The Commission believes, however, that such software either would be a standard component of office computer “suites,” or should be readily available “off the shelf.” Therefore, the Commission estimates that up to 23 respondents will purchase such software at up to \$100 per provider. The Commission further estimates that such software would have a useful life of 10 years. Thus:

(a) Total annualized capital/start-up cost: \$230

(b) Total annual costs (operation and maintenance): \$0

(c) Total annualized cost requested: \$230

14. Because the Commission’s *Internet-based TRS Certification Process* is now under OMB Control No. 3060-1150, the speed dialing requirement in this collection does not require FCC staff to review or process any sort of documentation nor does it impose burden on FCC staff. Therefore, there will be no cost to the Federal government for this collection of information.

15. This supporting statement contains various adjustments from previous collections of information under OMB Control Number 3060-1047. First, in its review for this supporting statement, the Commission has found some duplication of burdens between the burdens that OMB approved for this collection on March 4, 2009, and those that it has approved in OMB collections 3060-1150 on October 20, 2011. Therefore, the Commission has adjusted the estimated burdens accordingly, removing duplicated burdens from this collection.

Second, the Commission generally reevaluated the assumptions underlying and calculation of its total annual burden estimates for this collection, which also contributed to adjustments to the estimated burdens associated with these collections of information. Therefore, the number of responses has decreased by -57, from 80 responses to 23 responses; and the annual burden hours have decreased by -207, from 322 annual hours to 115 annual hours.

There are no program changes.

16. The results of these collections of information are not planned to be published.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information, because the collections do not include a specific form.
18. There are no exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods**

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The Commission does not anticipate that the collection of information will employ statistical methods.