

Dated: December 7, 2012.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03-123; WC Docket No. 05-196; WC Docket No. 10-191; FCC 12-139]

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 Federal Communications Commission (Commission) reconsiders and clarifies certain aspects of the *iTRS Toll Free Order* in response to a petition for reconsideration and clarification filed by Sorenson Communications, Inc. (Sorenson). The Commission grants Sorenson's Petition and clarifies certain aspects of the user notification requirements and denies the remainder of the Petition relating to the database mapping requirements and establishing a one-year end date for the customer notification requirements.

DATES: Effective January 25, 2013.

FOR FURTHER INFORMATION CONTACT: Heather Hendrickson, Wireline Competition Bureau, (202) 418-7295.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CG Docket No. 03-123, WC Docket Nos. 05-196, 10-191, FCC 12-139, released on November 16, 2012. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street SW., Washington, DC 20554. It is also available on the Commission's Web site at <http://www.fcc.gov>.

I. Introduction

1. In this Order, we grant in part a petition for reconsideration and clarification of the Commission's *iTRS Toll Free Order*, 76 FR 59551, September 27, 2011 filed by Sorenson Communications, Inc. (Sorenson). In that Order, the Commission adopted

rules to improve assignment of telephone numbers associated with Internet-based Telecommunications Relay Service (iTRS). For the reasons set forth below, the Commission grants Sorenson's Petition with respect to certain user notification requirements and denies the remainder of the Petition.

II. Background

2. Prior to 2008, there was no uniform numbering system for iTRS services; some iTRS users were reached via an IP address, while others were reached via toll free numbers. Because iTRS providers did not share their databases, the lack of standardized numbering hindered calls between people using different iTRS services. The widespread use of toll free numbers created additional competitive concerns because the users could not take their telephone numbers with them if they switched providers.

3. To address these concerns, beginning in 2008 the Commission adopted a series of orders that discouraged iTRS providers from issuing toll free numbers to their users. Ultimately, in the *iTRS Toll Free Order*, the Commission prohibited iTRS providers from issuing toll free numbers, requiring them instead to issue only geographically appropriate, ten-digit, North American Numbering Plan (NANP) telephone numbers. The Commission took this action because, in addition to the competitive concerns described above, the routine issuance of toll free numbers confused iTRS users, undermined the Commission's number conservation policy, increased costs to the TRS Fund, and potentially hindered responses to 911 calls.

4. Historically, when an iTRS user had a toll free number, the iTRS provider was the subscriber of record for that number; the user did not have a direct relationship with the toll free service provider. Under the rules the Commission adopted in the *iTRS Toll Free Order*, however, the iTRS user must be the toll free service provider's subscriber of record and must pay for the toll free subscription. The Order requires iTRS providers to facilitate this transition in various ways, notably by ensuring that iTRS users' toll free numbers are properly mapped in the TRS Numbering Directory (the numbering database used for iTRS services) and by explaining to users how they may keep or acquire a toll free number. The Order established a one-year transition period for iTRS providers to implement the new rules; the transition period ends on November 21, 2012.

5. In October 2011, Sorenson filed a petition seeking reconsideration and clarification of specific aspects of the *iTRS Toll Free Order*. Sorenson challenges aspects of the database mapping requirement and the customer notification requirement. No party opposed Sorenson's Petition, and one party—Hamilton Relay—filed in support.

III. Discussion

A. Database Mapping

6. The *iTRS Toll Free Order* requires iTRS providers to ensure that when an iTRS subscriber obtains a toll free number, that toll free number is properly mapped to that subscriber's NANP geographic number in the TRS Numbering Directory. The user's toll free number must be associated with the same Uniform Resource Identifier (URI) as that user's geographically appropriate NANP number in the TRS Numbering Directory.

7. Sorenson asks the Commission to reconsider this requirement, arguing that iTRS providers should not be required to map an iTRS user's toll free number to the user's URI in the TRS Numbering Directory. Sorenson claims that, because iTRS providers will no longer provision toll free numbers under the new rules, they will be unable to ensure that the information they receive about a number is accurate. Sorenson also claims that it will be unable to identify potential mistakes or changes when mapping a toll free number to the user's URI, such as if a user chooses to disconnect a toll free number and does not notify the iTRS provider. Sorenson further claims that mistakes in mapping will result in call failures due to database errors, and that the rules may enable fraud and spoofing by iTRS users. Sorenson argues that the Commission should consider alternative approaches. Specifically, Sorenson proposes that the Commission either (1) sever any connection between an iTRS user's toll free number and the TRS Numbering Directory, or (2) require another entity (not the iTRS provider) to verify that the toll free numbers and mappings are valid.

8. We deny Sorenson's Petition in this respect and decline to reconsider the database mapping requirements in the *iTRS Toll Free Order*. We do not find that Sorenson's concerns about linking a toll free number to an iTRS user's URI in the TRS Numbering Directory warrant a change to the current rules; nor do we find that Sorenson's proposed alternatives constitute a better approach.

9. As an initial matter, we note that the Commission addressed Sorenson's

concerns about database accuracy in the *iTRS Toll Free Order*. Sorenson raised the issue in its comments on the *iTRS Toll Free Notice*, 75 FR 67333, November 2, 2010, and the Commission responded in the *Order*, saying, “If Sorenson expects such errors to occur, it—and all other iTRS providers—may notify the iTRS user of the potential mistake and make several verifications of the toll free number to ensure correctness.” Sorenson argues in its Petition that, notwithstanding the language in the *Order*, Sorenson will have no way to verify whether the information it receives from its users about toll free numbers is accurate. We continue to believe, however, that iTRS providers do have ways to verify that toll free numbers have been mapped accurately, including by simply calling a toll free number to ensure that the call is delivered to the user. We do not believe that verifying database accuracy will be an overly burdensome task for providers because we expect that the number of iTRS users who choose to maintain or obtain toll free numbers under the new rules will be small. Most iTRS users will choose to relinquish their toll free numbers rather than pay for them. Thus, we expect that only a small number of iTRS users will require their iTRS provider to input a toll free number into the TRS Numbering Directory.

10. Second, the mapping requirement is essential in order to ensure that deaf and hard-of-hearing users’ access to and use of toll free numbers are functionally equivalent to hearing users’ access to and use of toll free numbers. Sorenson’s suggestion that the Commission eliminate the requirement entirely and keep toll free numbers out of the TRS Numbering Directory would undermine this goal. Information in the TRS Numbering Directory is used to route NANP-dialed calls both between deaf and hearing persons via a relay service and also directly between two deaf persons without the intervention of a relay service (point-to-point calls). As Sorenson acknowledges, its proposed approach would make point-to-point video calls to toll free numbers impossible, so that a deaf person could not call another deaf person’s toll free number directly. The Commission has previously emphasized the importance of point-to-point video calling to iTRS users, and we decline to restrict that functionality in this manner.

11. Third, the responsibility for ensuring accurate database mapping should lie with the iTRS provider because it serves as the registered service provider to its customers, and thus is already responsible for entering

its customers’ information into the TRS Numbering Directory. Shifting the responsibility to another party, as Sorenson proposes, is undesirable because under both the Commission’s rules and the directory access parameters set up by the database administrator, only iTRS providers may enter and change directory records, and only an individual’s default provider may enter and change information for that individual. Moreover, shifting responsibility to a third party with no access to the TRS Numbering Directory and no relationship with the user would likely increase, not decrease, the chance of database errors.

12. Finally, we find that Sorenson’s concerns about fraud and spoofing are overstated. As noted above, we expect the number of iTRS users who choose to retain, and pay for, toll free numbers to be small. Furthermore, the nature of iTRS services makes them poor vehicles for fraud and spoofing. Any iTRS user who tried to spoof a toll free number would necessarily have it linked to both his ten-digit number and his IP address, making it relatively traceable (unlike conventional PSTN spoofing scenarios), and thus an unlikely choice for perpetrating fraud. VRS is particularly well-protected: If a VRS user dialed a spoofed toll free number that had made its way into the TRS Numbering Directory, the VRS provider would identify the call as a point-to-point call between two deaf users, and the caller would end up face to face with the perpetrator. We therefore believe that the rules are unlikely to facilitate or lead to widespread fraud and spoofing schemes by iTRS users. Our decision here rests on two predictive judgments: That verifying the accuracy of the iTRS Directory with respect to toll free numbers will not be unduly burdensome on iTRS providers and that fraud and spoofing will not become major problems. We note that if either of our predictive judgments turn out incorrect, we remain free to consider alternative solutions to address these issues while ensuring the continuing integrity of point-to-point calls between iTRS users.

13. For these reasons, the Commission denies Sorenson’s request for reconsideration of the database mapping requirements. We also deny Sorenson’s request for “clarification that the Commission is aware of the problems that may result from the approach reflected in the *Order* and will not hold iTRS providers responsible for such problems over which they have no control.” As we have explained, we disagree that providers have “no control” over the information about toll

free numbers in the TRS Numbering Directory, and the Commission has rejected claims that iTRS providers lack the ability to verify the accuracy of toll free numbers. Thus, we reiterate that iTRS providers must take reasonable measures to ensure the completeness and accuracy of their users’ records in the TRS Numbering Directory.

B. Customer Notification

14. The *iTRS Toll Free Order* requires iTRS providers to include, in any promotional materials addressing numbering or E911 services, information about (1) the process by which an iTRS user may acquire a toll free number or transfer control of a toll free number from a VRS or IP Relay provider to the user; and (2) the process by which a user may request that the toll free number be linked to his or her ten-digit telephone number in the TRS Numbering Directory (by their iTRS provider). The information provided must include contact information for toll free service providers.

15. Sorenson requests reconsideration or clarification of the customer notification requirements in three respects. First, Sorenson argues that the notification requirements are unnecessarily burdensome, and that the volume of information that they would have to provide under the rule would fill more than 100,000 additional pages of printed materials annually and would overwhelm users. Sorenson proposes instead that it provide detailed information on its Web site and simply provide a link to that information in any promotional materials. Second, Sorenson asks the Commission to clarify that iTRS providers may satisfy the toll free service provider contact information requirement by linking to the Commission’s Web site. Finally, Sorenson asks the Commission to limit the customer notification requirements to the one-year transition period. We clarify the *iTRS Toll Free Order* in response to Sorenson’s first and second requests, and we deny Sorenson’s third request.

16. We find that a streamlined approach to the customer notification requirements is consistent both with the purposes of the *iTRS Toll Free Order* and with the Commission’s general preference for minimizing the burdens of disclosure requirements where possible. We therefore clarify that an iTRS provider may comply with § 64.611(g)(1)(v) and (vi) of the Commission’s rules by including on its Web site a clear description of how a user may acquire a toll free number or transfer control of a toll free number from a VRS or IP Relay provider to the

user and the process by which a user may request that the toll free number be linked to his or her ten-digit telephone number in the TRS Numbering Directory. In its promotional materials, the provider may simply provide a link to this information on the provider's Web site. This approach will ensure that deaf and hard-of-hearing users who want to acquire or retain a toll free number can easily find the information they need to do so, while at the same time alleviating Sorenson's concern about the burden on providers.

17. We also clarify the *iTRS Toll Free Order* with respect to toll free service provider contact information. An iTRS provider may satisfy the requirement that it provide contact information by linking to the list of toll free service providers maintained on the 800 Service Management System (SMS/800) Web site. The Commission's Consumer and Governmental Affairs Bureau has produced an American Sign Language video explaining the *iTRS Toll Free Order*, and the accompanying text directs iTRS users to the SMS/800 Web site's list of toll free service providers, which provides the most up-to-date information. Given that the Commission itself directs deaf and hard-of-hearing consumers to the SMS/800 Web site for toll free service provider information, we find that it is reasonable to allow iTRS providers to do the same.

18. Finally, we deny Sorenson's request to establish a one-year end date for the customer notification requirements. At the end of the one-year transition period established in the *Order*, iTRS users will still be able to subscribe to toll free numbers and have them entered into the TRS Numbering Directory. Moreover, with the modified requirements set forth herein, we have significantly reduced the burden of providing such notice.

IV. Procedural Matters

A. Paperwork Reduction Act

19. This Order on Reconsideration does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

B. Congressional Review Act

20. The rules previously adopted in the *iTRS Toll Free Order* were submitted to Congress and the

Government Accountability Office pursuant to the Congressional Review Act and remain unchanged by this Order on Reconsideration.

V. Ordering Clauses

21. Accordingly, *it is ordered*, pursuant to the authority contained in sections 1, 4(i), 225, 251(e), 255, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 225, 251(e), 255, 405, and §§ 1.1 and 1.429 of the Commission's rules, 47 CFR 1.1, 1.429, that this Order on Reconsideration IS *adopted*, effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**.

22. *It is further ordered*, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, that the Petition for Reconsideration and Clarification filed by Sorenson Communications, Inc. on October 27, 2011 is *granted* to the extent described herein and is otherwise *denied*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA-2001-11213, Notice No. 16]

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2013

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

According to data from FRA's Management Information System, the rail industry's random drug testing positive rate has remained below 1.0 percent for the last two years. The Federal Railroad Administrator (Administrator) has therefore determined that the minimum annual random drug testing rate for the period January 1, 2013, through December 31, 2013, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random

alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2013, through December 31, 2013. Railroads remain free, as always, to conduct random testing at higher rates.

DATES: This notice of determination is effective December 26, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gross, Trial Attorney, Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (telephone 202-493-1342); or Kathy Schnakenberg, FRA Alcohol/Drug Program Specialist, (telephone 719-633-8955).

Issued in Washington, DC on December 18, 2012.

Karen J. Hedlund,
Deputy Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120706221-2705-02]

RIN 0648-XC106

Atlantic Highly Migratory Species; 2013 Atlantic Shark Commercial Fishing Season

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

ACTION: Final rule; fishing season notification.

SUMMARY: This final rule establishes the opening dates and quotas for the 2013 fishing season for the Atlantic commercial shark fisheries (sandbar sharks, non-sandbar large coastal sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks), non-blacknose small coastal sharks, or blacknose sharks). Baseline quotas are adjusted as required based on any over- and/or underharvests experienced during the 2011 and 2012 Atlantic commercial shark fishing seasons. We used previously-implemented regulatory criteria that contain adaptive management measures to determine the opening dates. We also plan to use these measures throughout the fishing year for inseason adjustments to the shark retention limits, as appropriate, to provide, to the extent practicable,