

Number of Respondents: 5,053.
Estimated Time per Response: 5.311 hours (average).

Frequency of Responses:
 Recordkeeping; Annual Reporting requirement; Third Party disclosure.

Total Annual Burden: 26,837 hours.
Total Annual Cost: None.

Needs and Uses: On June 17, 2003, the FCC released a *Notice of Proposed Rulemaking* (NPRM), which proposed rules in § 64.604(c)(5)(iii)(F) regarding certification for TRS providers to be eligible to receive payments from the Interstate TRS Fund. The Commission also proposed to revise § 64.605 of the Commission's rules. On June 17, 2003, the Commission also released a *Second Report and Order*, *Order on Reconsideration* and is seeking OMB approval for the new collection on the final rule § 64.604(a)(3) and (c)(2) in that *Second Report and Order*. See *Telecommunication Relay Services and Speech-to-Speech for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98–67, (Report and Order), FCC 03–112.

Synopsis

In this *NPRM*, the Commission seeks comment on whether TRS and TRS facilities should receive a National Security and Emergency Preparedness (NS/EP) Priority Status commensurate with that given to local exchange carrier (LEC) facilities. The Commission also requests comment on TRS mandatory minimum standards regarding confidentiality requirements and encryption for IP Relay TRS calls. The Commission seeks comment on whether TRS should employ a non-shared language translation service, and on amending its call set-up rules for various types of TRS calls. The *NPRM* also seeks comment on technological advances that may improve the functional equivalency of TRS, and on outreach efforts that may benefit TRS consumers. Finally, the *NPRM* seeks comment on whether the Commission should institute a certification process for providers of IP Relay, VRS, and any other technology that does not fit into the statutorily-mandated jurisdictional separation of intrastate and interstate. The intent of these proposed rules is to improve TRS services and the Commission's oversight of certified state TRS programs.

Initial Regulatory Flexibility Analysis (IRFA)

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603 *et seq.*, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant

economic impact on small entities by the policies and rules proposed in this *NPRM*. See 5 U.S.C. 603. We expect that we could certify this action under 5 U.S.C. 605, because it appears that only one TRS provider is likely a small entity (because it is a non-profit organization). Therefore, there is not a substantial number of small entities that may be affected by our action. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

The Commission is issuing this *NPRM* to seek comment on technological advances that could improve TRS. In doing so, the Commission intends to improve TRS users consistent with Congress' direction ensure that the Commission's regulations encourage the use of existing technology and not discourage or impair the development of improved technology. 47 U.S.C. 225(d)(2). The Commission also seeks public comment on whether its rules should be modified to provide a federal certification process for providers of IP Relay and VRS.

Legal Basis

The authority for actions proposed in this *NPRM* may be found in sections 1, 4(i) and (j), 201–205, 218 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i), 154(j), 201–205, 218 and 225.

Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by rules adopted herein. 5 U.S.C. 604(a)(3). The RFA defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” 5 U.S.C. 601(6). In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. 632). Pursuant to the 5 U.S.C. 601(3), the statutory definition of 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 and publishes such definition(s) in the **Federal Register**.” 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). 15 U.S.C. 632. A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. 5 U.S.C. 601(4). Nationwide, as of 1992, there were approximately 275,801 small organizations. 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration). The term “small governmental jurisdiction” is defined as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. 5 U.S.C. 601(5). As of 1997, there were approximately 87,453 governmental jurisdictions in the United States. U.S. Census Bureau, *Statistical Abstracts of the United States: 2000*, Section 9, pages 299–300, Tables 490 and 492. This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdiction overall to be 84,098 or fewer.

Below, we further describe and estimate the number of small entity licensees and regulates that, in theory, may be affected by these rules. For some categories, the most reliable source of information available at this time is data the Commission publishes in its *Trends in Telephone Service* Report. FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, “Trends in Telephone Service” at Table 5.3, Page 5–5 (May 2002) (*Trends in Telephone Service*). FCC Web site location (see online page 24): <http://www.fcc.gov/Bureaus/CommonCarrier/Reports/FCC-StateLink/IAD/trends502.pdf>.

Local Exchange Carriers. We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business