Flooding Source(s)	Location of Referenced Elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Borough of Dushore
Maps are available for inspection at the Municipal Building, 216 Julia Street, Dushore, PA 18614.

Borough of Forksville
Maps are available for inspection at Sullivan County Planning and Community Development, 245 Muncy Street, Suite 110, Laporte, PA 18626.

Township of Davidson
Maps are available for inspection at the Davidson Township Municipal Building, 20 Michelle Road, Muncy Valley, PA 17758.

Township of Elkland
Maps are available for inspection at the Elkland Township Municipal Office Building, 909 Kobbe Road, Forksville, PA 18616.

Township of Forks
Maps are available for inspection at the Forks Township Hall, 627 Molyneux Hill Road, Dushore, PA 18614.

Township of Hillsgrove
Maps are available for inspection at the Township Hall, 2232 Route 87, Hillsgrove, PA 18619.

Township of Shrewsbury
Maps are available for inspection at the Shrewsbury Township Building, 1793 Edkin Hill Road, Muncy Valley, PA 17758.

James A. Walke,
Acting Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–02461 Filed 2–4–13; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 13–24 and 03–123; FCC 13–13]

Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether to make permanent, revise or eliminate its interim rules that: prohibit all referrals for rewards programs (as described in the synopsis below) and any other form of direct or indirect inducements, financial or otherwise, to subscribe to or use, or encourage subscription to or use of, Internet Protocol Captioned Telephone Service (IP CTS); require each IP CTS provider, in order to be eligible for compensation from the Interstate Telecommunications Relay Service (TRS) Fund (Fund or TRS Fund) for providing service to *new* IP CTS users, to register each new IP CTS user, and as part of the registration process, to obtain from the user a certification that the user has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users; and require IP CTS providers to ensure that equipment and software used in conjunction with their service have a default setting of captions off at the beginning of each call. The Commission also seeks comment on the following additional matters: the likely reasons that IP CTS has been experiencing unprecedented and unusually rapid growth; whether to prohibit all provider programs that give away or loan equipment to potential or existing IP CTS users at no cost or below some specified cost level; whether to require each IP CTS provider, as a condition of continuing to offer service to *existing* IP CTS users, to obtain registration and certification information from each such user; and whether to adopt any requirements for IP CTS equipment to have labels informing consumers that IP CTS may be used only by persons with hearing disabilities. The proposed rules are intended to address certain practices related to the provision and marketing of IP CTS that appear to be contributing to a recent and dramatic spike in reimbursement requests to the TRS Fund of sufficient magnitude to constitute a serious threat to the Fund if not promptly and decisively addressed.

DATES: Comments are due on or before February 26, 2013, and reply comments on or before March 12, 2013.

ADDRESSES: You may submit comments, identified by CG Docket No. 13–24, by any of the following methods:

Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://fjallfoss.fcc.gov/ecfs2/*. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 13–24.

• *Paper filers:* Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All

filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

• Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

▪ In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to *fcc@bcpiweb.com.* For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418–2235 or email *Eliot.Greenwald@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Notice of Proposed Rulemaking (*NPRM*), document FCC 13–13, adopted on January 24, 2013 and released on January 25, 2013, in CG Docket Nos. 13–24 and 03–123. In document FCC 13–13, the Commission also adopted an Interim Rule and a Final Rule, each of which is summarized in a separate **Federal Register** Publication. The full text of document FCC 13–13 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet: *www.bcpiweb.com.* Document FCC 13–13 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/cgb/dro/trs.html#orders.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 13–13 seeks comment on potential new or revised information collection requirements or may result in new or revised information collection requirements. If the Commission adopts any new or revised information collection requirement, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Synopsis

1. In the accompanying order, which is part of document FCC 13–13, the Commission adopts an emergency interim rule prohibiting all referrals for rewards programs or other financial inducements to subscribe to IP CTS. Specifically, the Commission prohibits any program initiated, sponsored or operated by IP CTS providers that offer financial or similar incentives or rewards to third parties for the referral of customers who sign up to use the provider's IP CTS offering, or who have a device or software installed that is needed for use with the provider's IP CTS offering, and any other form of direct or indirect inducements, financial or otherwise, to subscribe to or use, or encourage subscription to or use of, IP CTS. The Commission seeks comment on whether it should adopt this rule permanently, as well as any alternatives. The Commission asks commenters to weigh the potential benefits of the proposed rule against the potential costs. The Commission also seeks comment on whether it should address any other activities related to referrals for rewards programs or other financial inducements to subscribe to or use IP CTS, and if so, what the appropriate scope and nature of those requirements should be. Again, the Commission asks commenters offering additional proposals to weigh the potential benefits of such proposals against the potential costs.

2. In recent months, some providers have initiated programs to give away or to loan, at no charge, end user IP CTS equipment to IP CTS users who subscribe to their services. Just as the Commission is concerned about the potential for certain marketing programs to incent improper use of IP CTS, it is similarly concerned that the recent spike in IP CTS usage may be the direct result of these equipment giveaway or loan programs. Specifically, by giving away devices at no cost, these programs may be encouraging consumers to obtain and use the free equipment whether or not they actually need the service to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users. Many such phone devices are modern and attractive—and often provide enhanced sound amplification—features that are likely to entice consumers with or without hearing loss to seek their acquisition. Because of the ease and convenience of using such devices, which function much the same as a conventional telephone but for the addition of captions, once the device is in a consumer's possession, the consumer may begin to routinely use the device—as might others in the consumer's household—even if they do not need the service to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users. In fact, the unobtrusive nature of IP CTS is such that, when using the phone, consumers may not even be aware that captions are turned on or that they have the ability to turn them off. In this manner, the free distribution or loan of such devices may be contributing to heightened IP CTS usage by persons who do not have a sufficient degree of hearing loss to require this service to understand conversation over the phone, and may be contributing to the recent acceleration in usage of this service. As holds true for the rewards programs discussed above, the more customers that sign up to acquire free devices to use the provider's IP CTS, the more compensation the provider may seek to collect from the Fund, at no cost to the customer. Offering such free equipment, thus, may have the effect of enlisting customers who might not otherwise have a reason to use the service, an effect that is inconsistent with the

purpose of the TRS program to provide communication services to persons who have difficulty using conventional telephone services. *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98–67, Report and Order and Further Notice of Proposed Rulemaking; published at 65 FR 38432, June 21, 2000, and at 65 FR 38490, June 21, 2000). By contrast, when a consumer is required to pay some amount of money for an IP CTS phone, that individual has the incentive to first consider whether he or she needs the service, *i.e.,* to evaluate whether the benefit from the service is worth the cost of the specialized phone.

3. For these reasons, the Commission proposes to prohibit all provider programs that give away or loan equipment to potential or existing IP CTS users at no cost or at *de minimis* cost and seeks comment on this proposal. The Commission proposes to define ''*de minimis* cost'' for the purposes of this rule as a cost that is small enough so as to generally not be a factor in the consumer's decision to acquire the IP CTS equipment or software. *Cf. Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments of the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; In the Matter of Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision,* CG Docket No. 10–213, WT Docket No. 96–198, CG Docket No. 10–145, Report and Order and Further Notice of Proposed Rulemaking; published at 76 FR 82354, December 30, 2011, and at 76 FR 82240, December 30, 2011 (*ACS Report and Order*). The Commission tentatively concludes that the distribution of equipment for a *de minimis* cost will have the same effect as giving such equipment away for free. The Commission believes that only if the cost of such equipment is more than *de minimis,* even if discounted from its full production cost, will consumers have sufficient incentive to determine whether the benefits of purchasing the equipment outweighs its costs. The Commission seeks comment on these proposals, including its definition of *de minimis* cost, whether any rule should be based on a higher price point, and the impact that free or *de minimis* cost equipment can have on a consumer's acquisition of IP CTS equipment and use of IP CTS. In addition, the Commission seeks comment on the extent to which governmental programs are able to provide IP CTS equipment to people with limited incomes, making the free distribution of equipment by providers unnecessary. Commenters are also invited to offer alternative definitions of *de minimis* cost for the Commission's consideration. In addition, the Commission seeks comment on whether it should adopt any prohibitions with regard to the free or *de minimis* cost distribution of software that facilitates the use of IP CTS. Finally, the Commission seeks comment on whether it should address any other aspects of IP CTS equipment and software, and if so, what the appropriate scope and nature of those requirements should be. The Commission asks commenters to weigh the potential benefits of such proposed rules against the potential costs.

4. In the accompanying Order which is part of document FCC 13–13, the Commission adopts interim rules requiring each IP CTS provider, in order to be eligible for compensation from the TRS Fund for providing service to *new* IP CTS users, (1) To register each new IP CTS user for service, (2) as part of the registration process, to obtain from each user a self-certification that the user has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users, and (3) where the consumer accepts IP CTS equipment for less than $75 from any source other than a governmental program, to obtain from the user a certification from an independent, third party professional attesting to the same. The Commission seeks comment on whether to make these interim requirements permanent for new IP CTS users. The Commission also seeks comment on whether it should include existing users within these requirements. In other words, the Commission also seeks comment on whether it should require each IP CTS provider, as a precondition to continuing to be eligible for compensation from the TRS Fund for providing service to *existing* IP CTS users, (1) To register each existing IP CTS user and as part of the registration process, (2) to obtain from each existing user a self-certification that the user has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users, and (3) where the existing user accepts (or has accepted) IP CTS equipment for less than $75 from any source other than a governmental program, to also obtain a certification from an independent, third party professional attesting to the same. As would be the case for a new user, an existing user who has obtained equipment from a governmental program would be able to present documentation to the provider demonstrating that the equipment was obtained through one of these programs instead of presenting a third-party certification. The Commission seeks comment on whether these or other certification requirements would be necessary if the Commission bars the provision of equipment for free or at *de minimis* cost. In addition, the Commission seeks comment on whether, where certification from independent, third party professionals is required, such certification should be made under penalty of perjury as an added layer of assurance that the individual's disability satisfies the Commission's eligibility requirements. The Commission also seeks comment on whether such requirements will effectively fulfill Congress's directive to the Commission, in section 225 of the Communications Act, to ensure that TRS is available, ''to the extent possible and in the most efficient manner,'' to persons with hearing and speech disabilities. 47 U.S.C. 225(b)(1). Will the proposed requirements be effective in covering the population intended for IP CTS, while excluding those who otherwise are able to communicate effectively by phone? Commenters who do not believe these are the appropriate requirements should offer alternative requirements that can be used to ensure that only eligible individuals who are intended to benefit from this service (*i.e.,* to receive functionally equivalent telephone service) are permitted to use it. The Commission also asks commenters to weigh the potential benefits of the proposed rules against the potential costs.

5. The Commission seeks comment as well on whether to adopt the same specifications as in the interim rules for the form and content of any self-certifications, or different specifications. Specifically, the Commission seeks comment on whether to require the self-certification to state that (1) The user has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users; (2) the user understands that the captioning service is provided by a live communications assistant (CA); and (3) the user

understands that the cost of IP CTS calls is funded by the federal TRS Fund. The Commission further seeks comment on whether the self-certification must be made on a form separate from any other user agreement (such as on a separate page), and require a separate signature specific to the self-certification. Finally, the Commission seeks comment on whether such self-certification should be made under penalty of perjury.

6. The Commission also seeks comment on whether to adopt any quantitative threshold hearing loss requirements to be eligible to use IP CTS. By way of background, the severity of an individual's hearing loss is often determined by the additional loudness above a nominal threshold to which a sound must be amplified before an individual can detect it. In this manner, levels of hearing loss are frequently classified in the following categories, defined in terms of the level of amplification, in decibels of gain (abbreviated as dB HL), necessary for the individual to detect the sound:

- Mild—between 26 and 40 dB HL
- Moderate—between 41 and 54 dB HL
- Moderately severe—between 55 and 70 dB HL
- Severe—between 71 and 90 dB HL
- Profound—91+ dB HL
- Totally Deaf—no hearing at all

7. Some states have established eligibility threshold requirements for programs distributing adaptive telecommunications equipment, including equipment specifically designed for use with CTS and/or IP CTS service, free of charge, to qualifying residents. Hearing loss thresholds used for these programs may be relevant because they are established for purposes of determining whether adaptive equipment is necessary to enable a person to communicate effectively by telephone. Most state equipment programs do not use quantified hearing loss criteria for determining eligibility to receive assistive devices. Instead, they usually require a general certification from an audiologist or other professional that the applicant has a disability preventing effective use of the telephone without the requested device and frequently, they also require an audiogram to accompany the certification. At least three states—North Dakota, Washington, and Wisconsin—however, do set mandatory or recommended criteria requiring that an individual's hearing loss be severe to profound in order to receive a CTS device.

8. In commenting on whether the Commission should adopt any quantitative eligibility requirements, and if so, what those requirements ought to be, the Commission asks commenters to address the criteria used by states, and also to address whether an eligibility threshold for using IP CTS should be based on a moderate hearing loss of 40 dB in the better ear or whether any other level of hearing loss would provide a more appropriate threshold. If the Commission were to adopt objective, quantitative eligibility criteria, should there also be an alternative means of establishing eligibility, for example a standard that qualifies an individual to use CTS if, in the reasonable opinion of a hearing professional, the individual is not capable of using the telephone in a manner that is functionally equivalent to communication by conventional telephone users? In addition, the Commission asks commenters who oppose quantitative requirements to propose alternative eligibility requirements. The Commission also asks commenters to weigh the potential benefits of establishing quantitative and other threshold eligibility criteria against the potential costs. Finally, the Commission seeks feedback on whether it should similarly allow states to use their own eligibility thresholds for IP CTS calls made by their residents to the extent that these exceed our federal standards, so long as such state requirements do not conflict with federal law.

9. The Commission also proposes to make permanent its interim rule requiring each IP CTS provider to maintain the confidentiality of any registration and certification information obtained by the provider, and to not disclose such registration and certification information or the content of such information except as required by law.

10. The Commission seeks comment on these proposals and any alternatives, including other eligibility criteria that should be required to become registered to use IP CTS. If the Commission adopts permanent rules requiring third party certification of the user's need for IP CTS, the Commission also seeks comment on which professionals should qualify as resources for providing such certification. The Commission also asks commenters to weigh the potential benefits of the proposed rules against the potential costs.

11. The Commission further proposes that providers be allowed a 90-day grace period to obtain registration and certification from their existing users, and that IP CTS providers that fail to register existing users within this grace period be required to cease providing service to any unregistered users or to any users who fail to provide the required certification immediately upon expiration of this grace period. The Commission seeks feedback on how to best implement a transition period for these requirements, if adopted, and asks commenters that do not believe that 90 days is the appropriate length of time for a transition period for registration of existing users to offer alternative proposals and include the reasons for such proposals. The Commission notes that in the Commission's reform of the Lifeline program, the Commission required carriers to recertify the eligibility of all existing Lifeline subscribers by December 31, 2012, which was seven months after the effective date of the certification requirement. *Lifeline & Link Up Reform and Modernization,* WC Docket No. 11–42, Report and Order and Further Notice of Proposed Rulemaking, published at 77 FR 12784, March 2, 2012, and at 77 FR 12952, March 2, 2012. While so long a grace period may not be necessary here because the number of IP CTS subscribers is much smaller than the number of Lifeline subscribers, are there other reasons, such as the need to obtain certification from a professional, that would make a period longer than 90 days appropriate? Finally, the Commission asks commenters to weigh the potential benefits of the rules proposed above against the potential costs.

12. The Commission further proposes to require applicants seeking certification as IP CTS providers, including any applicants with pending applications for certification to whom certification has not been granted as of the effective date of this proposed rule, to submit to the Commission a description of how they will ensure that they do not request or collect payment from the TRS Fund for service to users who do not satisfy the eligibility criteria contained in the rules proposed herein, and an explanation of how those measures provide such assurance. Applicants whose submissions do not adequately establish that they have adequate measures and procedures in place to ensure that they will serve only eligible users will be denied IP CTS certification. The Commission seeks comment on this proposal.

13. In the accompanying Order, the Commission raises the concern that individuals who do not need CTS to communicate in a functionally equivalent manner and who are either living in the household or visiting the house or office of an eligible IP CTS user are likely to use the IP CTS equipment and service, resulting in improper billing of the TRS Fund. The Commission therefore adopts interim

rules requiring IP CTS providers to ensure that equipment and software used in conjunction with their service have captions turned off as the default setting at the beginning of each call, so that the consumer must take an affirmative step to turn on the captions each time the consumer wishes to use IP CTS. The Commission seeks comment on whether it should make this interim rule permanent, and if so, whether it should be changed in any way. The Commission asks commenters to weigh the cost of a requirement for a default setting of captions off against the benefits of such a requirement. The Commission asks commenters to address whether a requirement to have captions turned off as the default setting results in functionally equivalent IP CTS. The Commission also asks commenters to provide specific data comparing CTS usage in states with a required captions default off setting to CTS usage in states without such a requirement. In particular, the Commission asks commenters to address variations in the data that may not be related to the default setting—variations such as overall telephone usage and whether individuals with hearing loss living in households that include individuals with little or no hearing loss make less use of the telephone than individuals with hearing loss living in households where all occupants in the household experience hearing loss.

14. The Commission's speed of answer rules require that 85% of all calls be answered within 10 seconds, measured daily. 47 CFR 64.604(b)(2) of the Commission's rules. The Commission seeks comment on whether the current speed of answer rules are appropriate for IP CTS or whether such rules should be amended with respect to IP CTS. The Commission asks commenters to weigh the cost of any amended speed of answer rules against the benefits of such amended rules.

15. The Commission also seeks comment on whether it should adopt rules providing for an exception for devices located in a consumer or work environment where the devices are not accessible to non-eligible persons and the user certifies that he or she will not permit non-qualified users to utilize the captioning services provided on the device. The Commission asks commenters to weigh the cost of adopting the requirement for a default of captions off without the proposed exception against the benefits of not including the exception.

16. To further prevent casual or inadvertent use of IP CTS, the Commission seeks comment on whether it should require that each piece of new IP CTS equipment have a label on its face in a conspicuous location specifying that FCC regulations require that captions may be used only by people with hearing loss who require captions to fully understand telephone conversations. The Commission also seeks comment on whether it should require, for equipment that is already in the possession of users, that IP CTS providers send such labels to their registered users of this service, with specific instructions directing users to affix such labels on the front of their IP CTS equipment in a conspicuous location. In addition, the Commission seeks comment on whether it should require that the same information be provided on the caption screen when the equipment is turned on and is in captions-off mode, as well as during the time period after the user pushes the ''captions on'' button (or takes some other similar action to initiate captioning) and before captioning commences. The Commission asks commenters to weigh the costs of these labeling and display requirements against the benefits of such requirements.

Initial Regulatory Flexibility Analysis

17. The Regulatory Flexibility Act (RFA), 5 U.S.C. 603, requires that an agency prepare a regulatory flexibility analysis for notice-and-comment 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). 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.

18. In document FCC 13–13, the Commission seeks comment on its proposal to adopt permanently its interim rule prohibiting all referrals for rewards programs and any other form of direct or indirect inducements, financial or otherwise, to subscribe or use, or encourage subscription to or use of, Internet Protocol captioned telephone service (IP CTS). The Commission also seeks comment on its proposal to adopt a rule prohibiting IP CTS providers from providing to consumers, directly or indirectly, equipment at no cost or at nominal cost, whether through giveaway, sale, loan or otherwise. In addition, the Commission seeks comment on whether to adopt permanently its interim rule requiring each IP CTS provider, in order to be eligible for compensation from the TRS Fund for providing service to *new* IP CTS users, (1) To register each new IP CTS user for service, and as part of the registration process, (2) to obtain from each user a self-certification that (i) the user has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users, (ii) the user understands that the captioning service is provided by a live communications assistant (CA); and (iii) the user understands that the cost of IP CTS calls is funded by the federal TRS Fund; and (3) where the consumer accepts IP CTS equipment at a price below $75 from any source other than a governmental program, to also obtain from the user a certification from an independent, third party professional attesting to the user's need for IP CTS. In addition, the Commission seeks comment on whether to require each IP CTS provider, as a condition of continuing to offer service to *existing* IP CTS users who have not yet registered for service, (1) to register each such user with the IP CTS provider and as part of the registration process, to (2) obtain from each user certification that the user has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users. Lastly, the Commission seeks comment on its proposals to adopt permanently its interim rule requiring IP CTS equipment to have a default setting of captions off, so that the consumer must affirmatively turn on the captions each time the consumer wishes to use IP CTS, and on whether to require IP CTS equipment to have labels informing consumers that IP CTS may be used only by persons with hearing disabilities.

19. In recent months, IP CTS has been experiencing unusually rapid growth. The Commission is concerned that usage of this service by people who may not need the assistance of IP CTS, along with improper incentives for referrals to use this service are contributing substantially to this sudden, rapid increase in IP CTS minutes of use.

20. With regard to the criterion of the economic impact of document FCC 13–13, the Commission concludes that IP CTS providers fit within the business

classification of Wired Telecommunications Carriers. *See* NAICS Code 517110 (2007). The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers, for which the small business size standard is all such firms having 1,500 or fewer employees. 13 CFR 121.201, NAICS Code 517110 (2007). Collectively, there are four IP CTS providers that are authorized by the Commission to offer these services. Only one of these entities is a small business under the SBA size standard. Therefore, document FCC 13–13, if adopted, would not have a significant economic impact on a substantial number of small entities.

21. The Commission therefore certifies, pursuant to the RFA, that the proposals in document FCC 13–13, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in document FCC 13–13 require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of the Notice, including a copy of this initial certification, to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

22. Pursuant to sections 1, 2, 4(i) and (j) and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (j) and 225, document FCC 13–13 is hereby *adopted.*

List of subjects in 47 CFR Part 64

Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation to part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. Amend § 64.604 by revising paragraph (c)(8), and paragraphs (c)(9), added elsewhere in this issue of the **Federal Register**, effective upon OMB approval, and (10), added elsewhere in this issue of the **Federal Register**, effective March 7, 2013, and by adding paragraph (c)(11) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(8) *Inducements for use of IP CTS.* An IP CTS provider shall not provide to any person or entity any form of direct or indirect inducements, financial or otherwise, to subscribe to or use or encourage subscription to or use of IP CTS. IP CTS providers offering or providing such inducements shall be ineligible for any compensation for IP CTS from the TRS Fund.

(9) *IP CTS registration and certification requirements.* (i) IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, must first register the consumer by obtaining the following registration information: the applicant's name, address and telephone number.

(ii) IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification attesting that the consumer needs IP CTS to communicate in a manner that is functionally equivalent to the ability of a hearing individual to communicate using voice communications services.

(iii) The certification required by paragraph (c)(9)(ii) of this section must include the consumer's certification that

(A) The consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users;

(B) The consumer understands that the captioning service is provided by a live communications assistant; and

(C) The consumer understands that the cost of the IP CTS calls is funded by the TRS Fund.

(iv) The certification required by paragraph (c)(9)(ii) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.,* as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(v) In instances where IP CTS equipment is or has been obtained by a consumer for less than $75, the IP CTS provider must also, in order to be eligible to receive compensation from the TRS Fund, obtain written certification provided and signed by an independent third-party professional, except as provided in paragraph (c)(9)(v)(D) of this section.

(A) In instances where certification from an independent third-party professional is required, such professionals must be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and may include, but are not limited to, community-based social service providers, hearing related professionals, vocational rehabilitation counselors, occupational therapists, social workers, educators, audiologists, speech pathologists, hearing instrument specialists, and doctors, nurses and other medical or health professionals.

(B) In instances where certification from an independent third-party professional is required, such third-party professional must certify in writing that the IP CTS consumer is an individual with hearing loss who needs IP CTS to communicate in a manner that is functionally equivalent to telephone service experienced by individuals without hearing disabilities.

(C) In instances where certification from an independent third-party professional is required, such third-party professional must provide his or her name, title, and contact information, including address, telephone number, and email address.

(D) In instances where the consumer has obtained equipment from a governmental program, the consumer may present documentation to the IP CTS provider demonstrating that the equipment was obtained through one of these programs, in lieu of providing an independent, third-party certification.

(vi) Each IP CTS provider shall maintain the confidentiality of any registration and certification information obtained by the provider, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(vii) IP CTS providers may continue to provide IP CTS to existing IP CTS subscribers without obtaining registration information and certification of the existing subscriber's hearing loss for a period of 90 days following the effective date of this paragraph (c)(9) of this section.

(10) *IP CTS default settings.* (i) IP CTS providers must ensure that their equipment and software used in conjunction with their service have a default setting of captions off, so that all new and existing IP CTS users must affirmatively turn on captioning for each telephone call initiated or received before captioning is provided.

(ii) When IP CTS equipment is in operation with captions off, and during the time period after the user of IP CTS takes action to initiate captioning and before any such captioning commences, the IP CTS provider must display on the screen of the user's IP CTS equipment the following message: ''FCC regulations permit the use of captions only by people with hearing loss who require captions to communicate effectively using the telephone.''

(11) *IP CTS equipment.* (i) An IP CTS provider shall not provide to consumers, directly or indirectly, equipment at no cost or at *de minimis* cost, whether through giveaway, sale, loan, or otherwise. For the cost to be above *de minimis* cost, the cost must be large enough such that the consumer is likely to consider such cost in determining whether the benefit received from the IP CTS service is worth the cost of the specialized equipment or software. IP CTS providers providing such equipment or software at no cost or for a *de minimis* cost shall be ineligible to receive compensation for minutes of IP CTS use generated by consumers receiving, directly or indirectly, equipment or software at no cost or at *de minimis* cost.

(ii) IP CTS providers shall ensure that any equipment newly distributed for use with IP CTS has a label on its face in a conspicuous location specifying that FCC regulations permit the use of captions only by people with hearing loss who require captions to communicate effectively using the telephone. For IP CTS equipment already distributed to users by any IP CTS provider as of the effective date of this paragraph, such provider shall distribute to users equipment labels specifying that FCC regulations permit the use of captions only by people with hearing loss who require captions to communicate effectively using the telephone, along with specific instructions directing the users to place such labels on the face of their IP CTS equipment in a conspicuous location.

■ 2. Amend § 64.606 by adding paragraph (a)(2)(ii)(F) to read as follows:

§ 64.606 Internet-based TRS provider and TRS program certification.

(a) * * *

(2) * * *

(ii) * * *

(F) In the case of applicants to provide IP CTS or IP CTS providers, a description of measures taken by such applicants or providers to ensure that they do not and will not request or collect payment from the TRS Fund for service to consumers who do not satisfy the registration and certification requirements in § 64.604(c)(9), and an explanation of how these measures provide such assurance.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2013–0004; 4500030113]

RIN 1018–AZ26

Endangered and Threatened Wildlife and Plants; Listing as Endangered and Designation of Critical Habitat for Six West Texas Aquatic Invertebrate Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the August 16, 2012, proposed endangered status for six west Texas aquatic invertebrate species under the Endangered Species Act of 1973, as amended (Act). We also announce the reopening of comment on the August 16, 2012, proposed designation of critical habitat for the six west Texas aquatic invertebrate species and the availability of a draft economic analysis of the proposed designation and amended required determinations in the proposed rule. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rules, the associated draft economic analysis, and the amended required determinations. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rules.

DATES: We will consider comments received or postmarked on or before March 22, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on this action.

Public Hearing: We will hold a public hearing on these proposed rules at Balmorhea State Park in Toyahvale, Texas, on February 21, 2013 (see **ADDRESSES**).

ADDRESSES: *Document availability:* You may obtain a copy of the proposed rule on the internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2012–0029 or by mail from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain a copy of the draft economic analysis at Docket No. FWS–R2–ES–2013–0004.

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the listing proposal to Docket No. FWS–R2–ES–2012–0029, and submit comments on the critical habitat proposal and associated draft economic analysis to Docket No. FWS–R2–ES–2013–0004. See **SUPPLEMENTARY INFORMATION** for an explanation of the two dockets.

(2) *By hard copy:* Submit comment on the listing proposal by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0029; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203. Submit comment on the critical habitat proposal and draft economic analysis by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2013–0004; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Public informational session and public hearing: The public informational session and hearing will be held in the conference room at Balmorhea State Park, State Highway 17, Toyahvale, Texas. The public information session will begin at 5:00 p.m., and the public hearing will begin at 6:00 p.m. Central Time. People