

EPA that it has made diligent efforts to obtain the needed permit by (1) providing all information requested by the permitting authority and (2) accepting reasonable permit conditions, then EPA may grant an additional extension for up to 90 days beyond March 15, 1998. Failure to accept reasonable permit terms and conditions will not be recognized as a good cause basis for seeking an extension. If a facility has not yet received its permit by that later date, it will be subject fully to the Gas Distribution MACT standard as of its compliance date.

**General Conditions/Limitations**—As an express condition of benefiting from and operating under the above-described limited exclusion, each facility must comply at all times with each of the following:

- The source must have submitted the synthetic minor permit by June 15, 1997.
- The permit application terms and conditions must effectively limit emissions to area source levels.
- The source must certify to EPA and maintain full compliance with all the terms, conditions and representations reflected or referred to in its timely, complete permit application.
- The reason for the delay in the issuance of the permit must not be the fault of the source (e.g., at least one source will not be issued a permit because of unresolved New Source Performance Standards violations at the facility. Such source does not qualify for this exclusion.

- The source must submit, by January 15, 1998, supporting documentation, including the executive summary and enforcement provisions of the permit application with transmittal date, any indication from the permitting agency regarding the completeness of the application and recent communication from or to the permitting authority indicating the current status of the application (e.g., public comment being sought, etc.). Such documentation must be mailed to Air Enforcement Division, Attention: Charles Garlow, Esq., US EPA, Mail Code 2242A, 401 M St. SW, Washington, D.C. 20460, or sent by delivery service to the same Division, Ariel Rios Building, Room 2111, 12th and Pennsylvania Aves., N.W., Washington, DC 20004.

A failure to fully comply with each and every requirement, as may be determined by EPA, will void this grant of discretionary enforcement relief, cause such facility to be subject to the requirements of the Gasoline Distribution MACT standard as of its compliance date (December 15, 1997), and subject the facility to possible enforcement for violation of the MACT standard.

Sources in this situation should be reminded that if they presently qualify as synthetic minor sources, by operation of the January 25, 1995 Seitz/Van Heuvelen policy memorandum entitled "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act", then these sources do not need to utilize the option described here prior to the termination date of that policy. For example, if a source has documented actual emissions since January 1994 of less than 50% of the major source thresholds, then a permit is not needed to limit the PTE.

Other options are described in this memorandum.

As the Gasoline Distribution MACT standard compliance date is fast approaching, you have agreed to endeavor to distribute this memorandum broadly at the earliest practicable time to all facilities that may be subject to the MACT standard.

Questions regarding this matter should be directed to the Air Enforcement Division, 202-564-1088.

Sincerely,

Steven A. Herman,

Assistant Administrator.

Identical letters sent to:

Mr. John Prokof, Independent Liquid Terminal Association (ILTA), 1133 15th Street, NW, Suite 650, Washington, D.C. 20005.

Ms. Michele Joy, Association of Oil Pipelines (AOPL), 110 Vermont Ave, NW, Washington, D.C. 20005.

Mr. Tom Osburn, Society of Independent Gasoline Marketers of America (SIGMA), 11911 Freedom Drive, Reston, Virginia 20190.

cc: Regional Counsel, Regions I-X, Regional Air Program Directors, Regions I-X, John Seitz, Director, OAQPS, Lydia Wegman, Deputy Director, OAQPS, Bruce Jordan, Director, ESD.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 20

[CC Docket No. 94-102, FCC 97-402]

### Wireless Compatibility With Enhanced 911 Emergency Calling Systems

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, petitions for reconsideration.

**SUMMARY:** The Federal Communications Commission has adopted a *Memorandum Opinion and Order* in the wireless Enhanced 911 (E911) rulemaking proceeding, reaffirming its commitment to the rapid implementation of technologies needed to bring emergency help to wireless callers throughout the United States. The action is taken to resolve petitions for reconsideration of the rules adopted in the *First Report and Order* concerning the availability of basic 911 services and the implementation of E911 for wireless telecommunications services. The primary goal of this proceeding is to ensure that reliable, effective 911 and E911 service is available to wireless users as soon as technologically possible. The limited revisions to the Commission's rules adopted in this decision are intended to

remedy technical problems raised in the record. This *Memorandum Opinion and Order* contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

**EFFECTIVE DATE:** The definition of "designated PSAP" in § 20.3, and §§ 20.18(a), (b), (c), and (g) become effective January 16, 1998. The remaining rule amendments become effective February 17, 1998. Written comments on the proposed or modified information collections by the public are due January 20, 1998. Written comments must be submitted by the OMB on the proposed information collections on or before February 10, 1998.

**ADDRESSES:** A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, D.C. 20503, or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Won Kim or Dan Grosh, Policy Division, Wireless Telecommunications Bureau, at (202) 418-1310. For additional information concerning the information collections contained in the *Memorandum Opinion and Order*, contact Judy Boley at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Memorandum Opinion and Order* (MO&O) in CC Docket No. 94-102, FCC 97-402, adopted December 1, 1997, and released December 23, 1997. The complete text of this MO&O is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, at (202) 857-3800, 1231 20th Street, N.W., Washington, D.C. 20036.

### Synopsis of the Memorandum Opinion and Order

1. In this MO&O, pursuant to Section 1.429 of the Commission's Rules,<sup>1</sup> the

<sup>1</sup> See Section 1.429(b) of the Commission's Rules, 47 CFR 1.429(b).

Commission made limited revisions to its rules by (1) modifying basic 911 rules to require wireless carriers to transmit all 911 calls without regard to validation procedures and regardless of code identification; (2) temporarily suspending enforcement of the requirement that wireless carriers provide 911 access to customers using TTY devices until October 1, 1998, but only for digital systems that are not compatible with TTY calls and subject to a notification requirement; (3) modifying the definition of "covered Specialized Mobile Radio (SMR)" service for E911 purposes to include only providers of real-time, two-way interconnected voice service the networks of which utilize intelligent switching capability and offer seamless handoff to customers, and to extend this definition to broadband Personal Communications Services (PCS) and cellular service as well as SMR providers; and (4) clarifying the Phase I requirement for call back numbers and modifying associated rule definitions. The Commission also reemphasized that its 911 rules are intended to be technology-neutral, and to encourage the most efficient and effective technologies to report the location of wireless handsets, the most important E911 feature both for those seeking help in emergencies and for the public safety organizations that respond to emergency calls.

2. On June 12, 1996, the Commission adopted a First Report and Order (R&O) and a Further Notice of Proposed Rulemaking in this proceeding, establishing rules requiring wireless carriers to implement 911 and enhanced 911 (E911) services.<sup>2</sup> The Commission received 16 petitions for reconsideration of the R&O. In the MO&O, the Commission resolved issues raised in the petitions for reconsideration or clarification of the rules adopted in the R&O.

3. For basic 911 services, the MO&O first reviewed the rules that require wireless carriers to transmit 911 calls from all handsets with a "code identification" without validation and to transmit all 911 calls, even those without code identification, if requested to do so by a Public Safety Answering Point (PSAP) administrator.<sup>3</sup> Based on the record of this reconsideration proceeding, the Commission revised the rules by requiring covered carriers to

forward all 911 calls, without regard to validation procedures and regardless of code identification. Accordingly, the Commission deleted the definitions of "code identification" and "mobile identification number" from the Commission's Rules. The Commission also eliminated the PSAP choice to selectively receive wireless 911 calls, while generally reaffirming basic 911 requirement schedules.

4. The MO&O also reexamined the requirement that, no later than October 1, 1997, covered carriers be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, such as through the use of Text Telephone Devices (TTYs). Based on the record in the reconsideration proceeding, the Commission modified the Section 20.18(c) TTY implementation deadlines for analog wireless systems and digital wireless systems. For analog systems, the implementation deadline is December 1, 1997, the expiration of the stay of the rule.<sup>4</sup> For digital systems, the Commission decided to temporarily suspend enforcement of the TTY requirement until October 1, 1998, subject to conditions that protect consumers, encourage compliance, and ensure minimal delay.

5. Under the revised rules, carriers whose digital systems are not compatible with TTY calls must make every reasonable effort to notify current and potential subscribers that they will not be able to use TTYs to call 911 with digital wireless devices and services. In addition, wireless industry associations and consumer groups are required to file quarterly progress reports on efforts and achievements in E911-TTY compatibility, including efforts made to implement the notification requirements. Based on these quarterly status reports, the Wireless Telecommunications Bureau, under delegated authority, may extend the suspension of enforcement of section 20.18(c) for an additional three months, until January 1, 1999, if necessary.

6. In the MO&O, the Commission concluded that the "covered SMR" definition adopted in the R&O is overinclusive with respect to certain types of SMR systems and should be narrowed to include only those systems that will directly compete with cellular and PCS in providing comparable

public mobile interconnected service. Accordingly, the Commission modified its rules to change the definition of "covered SMR" for 911 purposes to include only providers of real-time, two-way interconnected voice service the network of which utilize intelligent switching capability and offer seamless handoff to customers, and to extend this definition to broadband PCS and cellular as well as SMR providers.

7. In addition, under the revised rules, "covered" SMR systems that offer dispatch services to customers may meet their 911 and E911 obligations to their dispatch customers either by providing customers with direct access to 911 services, or alternatively, by routing dispatch customer emergency calls through a dispatcher. A covered carrier who chooses the latter alternative for its dispatch customers must make every reasonable effort to explicitly notify current and potential dispatch customers and their users that they will not be able to directly reach a PSAP by calling 911 and that, in the event of an emergency, the dispatcher should be contacted.

8. As to E911 Phase I requirements and implementation schedule, the Commission upheld its decision to require that, as of April 1, 1998, covered carriers be able to provide automatic number identification (ANI) and cell site information for 911 calls to the PSAP. At the same time, the MO&O clarified carriers' obligations to provide call back numbers and modified associated rule definitions. With respect to the call back obligation, the Commission clarified that where the handset's directory number is not known to the serving carrier, the carrier's obligations extend only to delivering 911 calls to PSAPs. Therefore, covered carriers will not be required to provide reliable call back numbers to PSAPs in the case of mobile units that are not associated with a dialable telephone number. However, carriers will be expected to transmit all calling party information that is compatible with their systems for 911 calls from validated customers.

9. The MO&O also upheld Phase II requirements and the implementation schedule by clarifying that, as of October 1, 2001, covered carriers provide to the designated PSAP the location of all 911 calls by longitude and latitude such that the accuracy for all calls is 125 meters or less using a Root Mean Square (RMS) methodology. In denying petitions for reconsideration of the Phase II implementation schedule, the Commission concluded that broadband PCS and other digital system providers had sufficient notice

<sup>2</sup> See 61 FR 40348; 61 FR 40374 (August 2, 1996).

<sup>3</sup> "Code Identification" was defined in section 20.03 of the Commission's Rules to mean a handset that transmits the 34-bit Mobile Identification Number (MIN) typically used by cellular or PCS licensees, or the functional equivalent of a MIN in the case of SMR services.

<sup>4</sup> The October 1, 1997 implementation date for section 20.18(c) of the Commission's Rules was temporarily stayed until November 30, 1997. See Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Order, DA 97-2119 (released Sept. 30, 1997).

to prepare for the implementation of the E911 features and it is not necessary to delay the October 1, 2001 implementation schedule at this time. In addition, the Commission reaffirmed that its rules and their application are intended to be technologically and competitively neutral.

10. The MO&O also reaffirmed the Commission's decision not to exempt providers of E911 service from liability for certain negligent acts, finding that none of the petitioners presents arguments sufficient to persuade the Commission to modify its determination that it is unnecessary to exempt providers of E911 service from liability and to preempt state tort law. Likewise, the Commission reaffirmed the decision in the R&O not to prescribe a particular E911 cost recovery methodology. The Commission continued to find no adequate basis on this record for preemption of the various state and local funding mechanisms that are in place or under development, or for concluding that state and local cost recovery mechanisms will be discriminatory or inadequate.

#### Paperwork Reduction Act

11. This MO&O contains either proposed or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this MO&O, as required by the Paperwork Reduction Act of 1995, Public Law No. 104-13. Public and agency comments are due on January 20, 1998. OMB comments are due on February 10, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-xxxx.

Title: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling System (Memorandum Opinion and Order, CC Docket 94-102).

Form Number: N/A.

Type of Review: New Collection.

Respondents: Cellular, broadband PCS, and SMR carriers subject to the

modified rules; State and local government entities; Public Safety Answering Points.

Number of Respondents: 42,031.

Estimated Time Per Response:

a. Two time notification burden on 4,700 PSAPs @ 1 hr per=9,400 hours.

b. Two time response burden on carriers @ 1 hr per=9,400 hours.

c. One time review or establishment of cost recovery program by 375 government entities @ 10 hrs per=3,750 hours.

One time burden for consultation for remaining 125 government entities using contractors to review and/or establish cost recovery program @ 1 hr per=125 hours.

d. One time burden for 3,469 digital licensees to place notification information in digital user manuals or service contracts @ 1/2 hr per=1,735 hours.

e. One time burden on 3,469 digital licensees to notify existing digital subscribers @ 1/4 hr per=868 hours.

f. One time burden on 7 representative organizations to draft survey for quarterly TTY report @ 1 hr per=7 hours.

Quarterly burden on 7 representative organizations to review survey results @ 12 hrs per=84 hours.

Quarterly burden on 7 representative organizations to draft joint quarterly TTY report @ 20 hrs. per=140 hours.

Quarterly burden on 3,469 licensees to respond to survey @ 8 hrs. per=27,752 hours.

g. One time burden on 31,530 SMR licensees offering direct dispatch capability to place notification in user manuals and service agreements @ 1/2 hour per=15,765 hours.

h. One time burden on 31,530 SMR licensees offering direct dispatch capability to notify existing customers @ 1/4 hr per=7,884.

i. One time burden on 35,424 carriers to consult on determining a designated PSAP @ 1 hr per=35,424 hours.

j. One time burden on 500 government entities to consult with 35,424 carriers in determining a designated PSAP @ 1 hr per=35,424 hours.

k. One time burden on 1,400 telephone systems to consult on definition of pseudo-ANI @ 3 hr per=4,200 hours.

l. One time burden on 8,500 licensees to prepare a deployment schedule to accompany a waiver request @ 4 hours per=34,000 hours.

One time burden on 8,500 licensees to consult with a contract engineer to prepare a deployment schedule to accompany a waiver request @ 1 hr per=8,500 hours.

Total Annual Burden: 194,457 hours.

Estimated Costs Per Respondent: \$7,050,000.

Review and/or establishment of cost recovery program to 125 state and local entities using contract CPAs @ \$200 per hour=\$2000 per entity.

Preparation of deployment schedule to 8,500 licensees using contract engineers @ \$100 per hour=\$800.

Needs and Uses: The notification burden on PSAPs will be used by carriers to verify that wireless 911 calls are referred to PSAPs who have the technical capability to use the data to the caller's benefit. TTY and dispatch notification requirements will be used to avoid consumer confusion as to the ability to reach 911 services using their wireless handsets. These notifications will also avoid delays in emergency response time. The quarterly reports will be used to monitor the progress of TTY compatibility. Consultations on the specific meaning assigned to pseudo-ANI are appropriate to ensure that all parties are working with the same information. Coordination between carriers and State and local entities to determine the PSAPs that are appropriate to receive 911 calls is necessary because of the difficulty in assigning PSAPs based on the location of the caller. The deployment schedule that should be submitted by carriers seeking a waiver of the Phase I or Phase II schedule will be used by the Commission to guarantee that the rules adopted in this proceeding are enforced in as timely a manner as possible within technological constraints.

#### Procedural Matters

##### Supplemental Final Regulatory Flexibility Analysis

12. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), a Final Regulatory Flexibility Analysis (FRFA) was incorporated the *E911 First Report and Order* in this proceeding. The Commission's Supplemental Final Regulatory Flexibility Analysis (SFRFA) in this *Memorandum Opinion and Order* (MO&O) reflects revised or additional information to that contained in the FRFA. The SFRFA is thus limited to matters raised in response to the R&O and addressed in this MO&O. This SFRFA conforms to the RFA, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Public Law No. 104-121, 110 Stat. 846 (1996).<sup>5</sup>

<sup>5</sup> Title II of the Contract with America Act is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 et seq.

### I. Need For and Objectives of the Action

13. The actions taken in this MO&O are in response to petitions for reconsideration or clarification of the rules adopted in the *E911 First Report and Order* requiring wireless carriers to implement 911 and Enhanced 911 (E911) services. The limited revisions made in the MO&O are intended to remedy technical problems raised in the record while otherwise reaffirming the Commission's commitment to the rapid implementation of the technologies needed to bring emergency help to wireless callers throughout the United States.

### II. Summary of Significant Issues Raised by the Public Comments in Response to the Final Regulatory Flexibility Statement

14. No comments were received in direct response to the FRFA, but the Commission received 16 petitions for reconsideration of the *E911 First Report and Order*. The majority of petitioners ask that the Commission reconsider the rules governing when covered wireless carriers must make 911 access available to callers. Other petitioners ask that the Commission reconsider or clarify a variety of issues ranging from the implementation date for covered carriers to provide 911 access to people with hearing or speech disabilities through the use of Text Telephone Devices, such as TTYs, to the definition of which wireless carriers must comply with the rules, particularly in regard to "covered Special Mobile Radios (SMRs)." Paragraphs 1-5 of this MO&O provide a more detailed discussion of the petitions and the resulting actions. Additionally, as discussed in paragraphs 10-12, several parties filed *ex parte* presentations raising technical issues which prompted the Commission to stay the October 1, 1997 implementation dates for § 20.18 (a), (b), and (c) through November 30, 1997, and to seek further comment.

### III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

15. The rules adopted in this MO&O will apply to providers of broadband Personal Communications Service (PCS), Cellular Radio Telephone Service, and Specialized Mobile Radio (SMR) Services in the 800 MHz and 900 MHz bands. Service providers in these services are subject to 911 requirements solely to the extent that they offer real-time, two way switched voice service that is interconnected with the public switched network and utilize an in-network switching facility which

enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.

a. *Estimates for Cellular Licensees.* 16. As indicated in the FRFA, the Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.<sup>6</sup> In addition to the data supplied in the FRFA, a more recent source of information regarding the number of cellular services carriers nationwide is the data that the Commission collects annually in connection with the Telecommunications Relay Service (TRS) Worksheet.<sup>7</sup> That data shows that 792 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers have fewer than 1,500 employees, and because a cellular licensee may have several licenses, we are unable at this time to estimate with greater precision the number of cellular carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that, for purposes of our evaluations and conclusions in the SFRFA, all of the current cellular licensees are small entities, as that term is defined by the SBA.

b. *Estimates for Broadband PCS Licensees.* 17. As indicated in the FRFA, the broadband PCS spectrum is divided into six frequency blocks designated A through F. The FRFA provides a full explanation as to the definition of small business in the context of broadband PCS licensees, using the definition SBA approved, developed by the Commission for Blocks C-F, that a small business is an entity that has average gross revenues of less than \$40 million in the three previous calendar years.<sup>8</sup> In addition, the SBA has approved a Commission definition (for Block F) of "very small business" which is an entity that, together with their affiliates, has average gross revenues of not more than

\$15 million for the preceding three calendar years.<sup>9</sup> No small businesses within the SBA approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.<sup>10</sup> However, not all licenses for Block F have been awarded. Because licenses were awarded only recently, there are few small businesses currently providing broadband PCS services. Based on this information, we conclude that the number of small broadband PCS licensees includes the 90 small business winning C Block bidders and the 93 qualifying bidders in the D, E, and F Blocks, for a total of 183 small broadband PCS providers as defined by the SBA and the Commission's auction rules.

c. *Estimates for SMR Licensees.* 18. The FRFA indicates that, pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small entity" for geographic area 800 MHz and 900 MHz SMR licenses as firms that had average gross revenues of less than \$15 million in the three previous calendar years. This regulation defining "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.<sup>11</sup> As the FRFA noted, we do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. The number of licensees cannot be estimated, because, although we know that there are a total of slightly more than 31,000 SMR licensees, one licensee can hold more than one license. We do know, however, that one of these firms has over \$15 million in revenues. We assume, for purposes of our evaluations and conclusions in this SFRFA, that all of the remaining existing extended implementation authorizations are held

<sup>9</sup> *Id.*

<sup>10</sup> FCC News, Broadband PCS, D, E, and F Block Auction Closes, No. 71744 (released Jan. 14, 1997).

<sup>11</sup> See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89-553, Second Order on Reconsideration and Seventh Report and Order, 60 FR 48913 (September 21, 1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 61 FR 06212 (February 16, 1996).

<sup>6</sup> 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

<sup>7</sup> Federal Communications Commission, CCB Industry Analysis Division, Telecommunication Industry Revenue: TRS Worksheet Data, Tbl. 1 (Average Total Telecommunication Revenue Reported by Class of Carrier) (December 1996) (TRS Worksheet).

<sup>8</sup> See Amendment of parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, WT Docket No. 96-59, Report and Order, 61 FR 33859 (July 1, 1996).

by small entities, as that term is defined by the SBA.

19. Further, the Commission has no way of accurately determining which licensees would fall under the definition of "covered carrier" as expressed in the MO&O. The Commission still concludes that the number of geographic area SMR licensees affected by our action in this proceeding includes the 55 small entities who bid for and won geographic licenses in the 900 MHz SMR band. These 55 small entities hold a total of 245 licensees.

As of the adopted date of this decision, the auction for 800 MHz geographic area SMR licenses had not yet been completed. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis to estimate, moreover, how many small entities within the SBA's definition will win these licenses. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of our evaluations and conclusions in this SFRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

#### IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

20. The Commission is submitting several burdens to the Office of Management and Budget for approval. First, Public Safety Answering Points (PSAP) who are willing to participate in Phase I and Phase II of E911 service must notify the covered carrier that they are capable of receiving and utilizing the data elements associated with the service and request the service. Also, cost recovery mechanisms must be in place as a prerequisite to the imposition of enhanced 911 service requirements upon covered carriers. In the MO&O, the Commission requires that covered carriers whose digital systems are not compatible with TTY calls must make every reasonable effort to notify current and potential subscribers that they will not be able to use TTYs to call 911 with digital wireless devices and services.

21. In addition, to monitor the progress of the wireless industry regarding TTY compatibility, the Commission requires that the signatories to the TTY Consensus

Agreement file quarterly progress reports in this docket within ten days after the end of the quarter beginning January 1, 1998, until the quarter ending September 30, 1998. At the same time, the Commission grants the request of extension of time to file a Joint Status Report on TTY issues, that was due on October 1, 1997, and requires the signatories to the Consensus Agreement to file the Joint Status Report on TTY issues by December 30, 1997.

22. In the MO&O, the Commission also requires that covered carriers who offer dispatch service to customers and choose to comply with Commission rules by routing dispatch customer emergency calls through a dispatcher, rather than directly routing to the PSAP, must make every reasonable effort to explicitly notify the current and potential dispatch customers and their users that they will not be able to directly reach a PSAP by calling 911 and that, in the event of an emergency, the dispatcher should be contacted.

23. The MO&O, while revising the definition of "pseudo-ANI," provides that the specific meaning assigned to the pseudo-ANI is determined by agreements, as necessary, between the telephone system originating the call, intermediate telephone systems handling and routing the call, and the destination telephone system. Additionally, in recognition of the difficulty involved in assigning wireless 911 calls to the appropriate PSAP based on location, the MO&O clarifies that the responsible local or State entity has the authority and responsibility to designate the PSAPs that are appropriate to receive wireless E911 calls, noting that this will require continued coordination between carriers and State and local entities. The MO&O lastly provides that covered carriers can request a waiver of the Phase I implementation schedule based on inability to transmit 10-digit telephone numbers and cell site information, but requires that any waiver request based on a LEC's capability must be accompanied by a deployment schedule for meeting the Phase I requirements.

#### V. Significant Alternatives and Steps Taken By Agency To Minimize Significant Economic Impact on Small Entities Consistent With Stated Objectives

24. This MO&O is adopted in response to petitions for reconsideration, including several filed by small businesses. After consideration of these petitions, the MO&O first modifies the rules by requiring covered carriers to transmit all 911 calls. Section 20.18(b) of the Commission's Rules, 47

CFR 20.18(b), as adopted in the R&O, required that carriers transmit 911 calls from all handsets which transmit "code identifications" and transmit all 911 calls, even those without code identification, if requested to do so by a PSAP administrator. Thirteen of the sixteen petitioners ask that the Commission reconsider this requirement. After a review of the arguments raised by the petitioners in opposition to the rule, the MO&O finds that the rules adopted in the *E911 First Report and Order* would impose unreasonable cost, delay, and administrative burdens on wireless carriers, and that, at least for the present, the most practical, least expensive and most efficient option is to require covered carriers to forward all 911 calls.

25. Three original petitioners request that the Commission modify or defer the implementation dates of rules requiring covered carriers to provide 911 access to people with hearing or speech disabilities through the use of TTYs with respect to digital wireless systems, due to technical incompatibility. Although the Commission decides against deferring the implementation date indefinitely until the industry standards bodies resolve all the technical issues, as these petitioners request, it temporarily suspends enforcement of the TTY requirement for digital wireless systems until October 1, 1998, subject to a notification requirement.

26. Also, in response to 5 petitions seeking reconsideration of the Commission's decision as to the wireless carriers to whom the rules apply particularly for covered SMRs, the MO&O narrows the definition of "Covered SMRs" for E911 purposes to include only those systems that offer real-time, two way switched voice service that is interconnected with the public switched network and utilize an in-network switching facility which enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls. The Commission also decides to extend the modified definition to covered broadband PCS and cellular as well as SMR providers. We agree with the petitioners on this issue that the current rule could encompass SMR providers that primarily offer traditional dispatch services but also offer limited interconnection capability and that such traditional dispatch providers would have to overcome significant and potentially costly obstacles to provide 911 access. Furthermore, under the revised rules, the "covered" SMR systems that offer dispatch services to

customers may meet their 911 obligations either by providing customers with direct capability for 911 purposes, or alternatively, by routing dispatch customer emergency calls through a dispatcher, subject to a notification requirement.

27. The Commission also reviewed and rejected the Coast Guard's petition, which requested the Commission to apply E911 requirements to Mobile Satellite Services (MSS) and to issue a further notice of proposed rulemaking regarding the provision of emergency communications by MSS systems. In the MO&O, the Commission upholds its decision that MSS should be exempt from the 911 and E911 rules because adding specific regulatory requirements to MSS in this early stage of its growth may impede the development of service in ways that might reduce its ability to meet public safety needs. However, the Commission does urge the MSS industry and the public safety community to continue their efforts to develop and establish public safety standards along with international standards bodies.

28. Finally, although several petitioners asked the Commission to establish a specific cost recovery program (rather than the flexible alternative adopted in the *E911 First Report and Order*, the Commission declined to do so preferring to provide government entities with the option of keeping their existing cost recovery program in place or to create a cost recovery program that best suits the needs of all parties concerned in their locality.

#### Report to Congress

29. We will submit a copy of this Supplementary Final Regulatory Flexibility Analysis, along with the MO&O, in a report to Congress pursuant to 5 U.S.C. 801(a)(1)(A). A copy of this SFRFA will also be published in the **Federal Register**.

#### Authority

30. The Commission's action is taken pursuant to Sections 1, 4(i), 201, 303, 309, and 332 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i), 201, 303, 309, 332.

#### Ordering Clauses

31. Accordingly, *it is ordered* that the Petitions for Reconsideration of the First Report and Order, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, filed by parties listed in Appendix A of the full text of this

decision, are granted in part, as provided in the text of the MO&O, and otherwise denied.

32. *It is further ordered* that Part 20 of the Commission's Rules is amended as set forth below.

33. *It is further ordered* that §§ 20.18(a), 20.18(c), and 20.18(g) of the Commission's Rules, 47 CFR 20.18(a), 20.18(c), 20.18(g), as amended by this MO&O as set forth below, and the foregoing provisions of this MO&O that pertain to sections 20.18(a), 20.18(c), and 20.18(g) of the Commission's Rules, shall become effective January 16, 1998. This action is taken on the basis of our finding that, because the amended provisions of §§ 20.18(a), 20.18(c), and 20.18(g) are substantive rules that have the effect of granting an exemption, the effective date of these provisions may occur less than 30 days before publication of the provisions, pursuant to Section 553(d)(1) of Title 5, United States Code.

34. *It is further ordered* that: (1) § 20.18(b) of the Commission's Rules, 47 CFR 20.18(b), as amended by this MO&O below; (2) the definition of "designated PSAP" in section 20.3 of the Commission's Rules, 47 CFR 20.3, as added by this MO&O below; and (3) the foregoing provisions of this MO&O that pertain to section 20.18(b) of the Commission's Rules, and to the definition of "designated PSAP" in § 20.3 of the Commission's Rules shall become effective January 16, 1998. This action is taken, pursuant to Section 553(d)(3) of Title 5, United States Code, on the basis of our finding that there is good cause that the effective date of these provisions should occur less than 30 days before publication of the provisions. The Commission's finding of good cause is based upon its finding that the rule change will serve the purpose of "promoting the safety of life and property" under Section 1 of the Communications Act and that the particular safety issues involved—extending the benefits of 911 services to as many wireless phone users as possible—are of sufficient importance to warrant making the rule requirements immediately effective upon publication in the **Federal Register**. In addition, the Commission notes that, since the adoption of the *E911 First Report and Order* in June 1996 there has been considerable confusion and uncertainty regarding the ability of covered carriers to comply with the provisions of § 20.18(b) of the Commission's Rules, as those provisions were initially prescribed in the *E911 First Report and Order*. This confusion and uncertainty were heightened by assertions made by the Wireless 911 Coalition regarding

technical issues associated with requirements imposed by the rule. Although the decision of the Wireless Telecommunications Bureau in the *Stay Order* was an appropriate step in this case in light of the continuing pendency of these issues at the time the *Stay Order* was issued, it also resulted in a continuation of the confusion and uncertainty surrounding the question of whether all users of wireless services provided by covered carriers could expect and rely upon the fact that their 911 calls would go through to emergency service providers. Now that the Commission has resolved this issue by the action taken today, it can find no basis for any failure to end as quickly as possible this confusion and uncertainty regarding the obligations of covered carriers and the public safety expectations of the users of wireless services.

35. *It is further ordered* that the remaining rule amendments made by this MO&O and specified below shall become effective February 17, 1998.

36. *It is further ordered* that the Wireless Telecommunications Bureau is hereby delegated authority to grant an additional 3-month suspension of enforcement of section 20.18(c) of the Commission's Rules, 47 CFR 20.18(c), until January 1, 1999, with respect to wireless carriers who use digital wireless systems, upon reviewing the joint quarterly status reports on TTY compatibility with digital systems filed by the signatories to the TTY Consensus Agreement.

37. *It is further ordered* that the signatories to the TTY Consensus Agreement SHALL FILE a joint quarterly status report regarding TTY compatibility with digital systems within 10 days after the end of each calendar quarter during the period beginning January 1, 1998, and ending September 30, 1998, with the first report due April 10, 1998, as set forth in the foregoing provisions of this MO&O.

38. *It is further ordered* that the Request of an Extension of Time to File the Joint Status Report on TTY Issues, filed by the Cellular Telecommunications Industry Association on October 1, 1997, IS GRANTED, and that the signatories to the Consensus Agreement, the Personal Communications Industry Association, and Telecommunications for the Deaf, Inc. must file a Joint Status Report on or before December 31, 1997.

39. *It is further ordered* that the information collections contained in the rule amendments set forth below WILL BECOME EFFECTIVE following approval by the Office of Management and Budget. The Commission will

publish a document at a later date establishing the effective date.

40. *It is further ordered* that, the Director of the Office of Public Affairs shall send a copy of this MO&O including the Supplementary Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

#### List of Subjects in 47 CFR Part 20

Communications common carriers.  
Federal Communications Commission.  
**Magalie Roman Salas,**  
Secretary.

#### Rule Changes

Part 20 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for Part 20 continues to read as follows:

**Authority:** Sections 4, 251–2, 303, and 332, 48 Stat. 1066, 1062, as amended; 47 U.S.C. 154, 251–4, 303, and 332 unless otherwise noted.

2. Section 20.3 is amended by removing the definitions *Code Identification* and *Mobile Identification Number*; by adding a definition for *Designated PSAP*; and revising definitions for *Automatic Number Identification*, and *Pseudo Automatic Number Identification* to read as follows:

#### § 20.3 Definitions

*Automatic Number Identification* (ANI). A system that identifies the billing account for a call. For 911 systems, the ANI identifies the calling party and may be used as a call back number.

\* \* \* \* \*

*Designated PSAP*. The Public Safety Answering Point (PSAP) designated by the local or state entity that has the authority and responsibility to designate the PSAP to receive wireless 911 calls.

\* \* \* \* \*

*Pseudo Automatic Number Identification* (Pseudo-ANI). A number, consisting of the same number of digits as ANI, that is not a North American Numbering Plan telephone directory number and may be used in place of an ANI to convey special meaning. The special meaning assigned to the pseudo-

ANI is determined by agreements, as necessary, between the system originating the call, intermediate systems handling and routing the call, and the destination system.

\* \* \* \* \*

3. Section 20.18 is revised to read as follows:

#### § 20.18 911 Service.

(a) *Scope of section*. The following requirements are only applicable to Broadband Personal Communications Services (part 24, subpart E of this chapter), Cellular Radio Telephone Service (part 22, subpart H of this chapter), and Geographic Area Specialized Mobile Radio Services and Incumbent Wide Area SMR Licensees in the 800 MHz and 900 MHz bands (included in part 90, subpart S of this chapter). In addition, service providers in these enumerated services are subject to the following requirements solely to the extent that they offer real-time, two way switched voice service that is interconnected with the public switched network and utilize an in-network switching facility which enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.

(b) *Basic 911 Service*. Licensees subject to this section must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, provided that “all wireless 911 calls” is defined as “any call initiated by a wireless user dialing 911 on a phone using a compliant radio frequency protocol of the serving carrier.”

(c) *TTY Access to 911 Services*. Licensees subject to this section must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, *e.g.*, through the use of Text Telephone Devices (TTY).

**Note to paragraph (c):** Enforcement of the provisions of this paragraph is suspended until October 1, 1998, in the case of calls made using a digital wireless system that is not compatible with TTY calls, provided that the licensee operating such a digital system shall make every reasonable effort to notify current and potential subscribers who use or may use such a system that they will not be able to make a 911 call over such system through the use of a TTY device.

(d) *Phase I enhanced 911 services*. (1) As of April 1, 1998, licensees subject to this section must provide the telephone number of the originator of a 911 call and the location of the cell site or base

station receiving a 911 call from any mobile handset accessing their systems to the designated Public Safety Answering Point through the use of ANI and Pseudo-ANI.

(2) When the directory number of the handset used to originate a 911 call is not available to the serving carrier, such carrier’s obligations under the paragraph (d)(1) extend only to delivering 911 calls and available calling party information to the designated Public Safety Answering Point.

**Note to paragraph (d):** With respect to 911 calls accessing their systems through the use of TTYs, licensees subject to this section must comply with the requirements in paragraphs (d)(1) and (d)(2) of this section, as to calls made using a digital wireless system, as of October 1, 1998.

(e) *Phase II enhanced 911 services*. As of October 1, 2001, licensees subject to this section must provide to the designated Public Safety Answering Point the location of all 911 calls by longitude and latitude such that the accuracy for all calls is 125 meters or less using a Root Mean Square (RMS) methodology.

(f) *Conditions for enhanced 911 services*. The requirements set forth in paragraphs (d) and (e) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the costs of the service is in place.

(g) *Dispatch service*. A service provider covered by this section who offers dispatch service to customers may meet the requirements of this section with respect to customers who utilize dispatch service either by complying with the requirements set forth in paragraphs (b) through (e) of this section, or by routing the customer’s emergency calls through a dispatcher. If the service provider chooses the latter alternative, it must make every reasonable effort to explicitly notify its current and potential dispatch customers and their users that they are not able to directly reach a PSAP by calling 911 and that, in the event of an emergency, the dispatcher should be contacted.

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