Administrative Procedure Act

This document without any changes affirms amendments made by an interim final rule that is already in effect. Accordingly, we have concluded under 5 U.S.C. 553 that there is good cause for dispensing with a delayed effective date based on the conclusion that such procedure is impracticable, unnecessary, and contrary to the public interest.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This final rule would have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This final rule would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025. 1

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: April 15, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

PART 17—MEDICAL

Accordingly, the interim final rule amending 38 CFR part 17 which was published at 66 FR 63446 on December 6, 2001, is adopted as a final rule without change.

[FR Doc. 02–10886 Filed 5–1–02; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22, 24 and 64

[CC Docket No. 97–213; FCC 02–108]

Communications Assistance for Law Enforcement Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts four electronic surveillance capabilities for wireline, cellular, and broadband Personal Communications Services (''PCS'') telecommunications carriers and sets a compliance date of June 30, 2002 for those four capabilities, as well as two capabilities previously mandated by the Commission. The Commission takes this action under the provisions of the Communications Assistance for Law Enforcement Act of 1994 (Public Law 103–414, 108 Stat. 4279 (1994) (codified as amended in scattered sections of 18 U.S.C. and 47 U.S.C. 229, 1001–1010, 1021)). (''CALEA'') and in response to a decision issued by the United States Court of Appeals for the District of Columbia Circuit (''Court'') that vacated four Department of Justice (''DoJ'')/ Federal Bureau of Investigation (''FBI'') ''punch list'' electronic surveillance capabilities mandated by the Commission's Third Report and Order (''Third R&O'') in this proceeding.

DATES: Effective June 3, 2002.

FOR FURTHER INFORMATION CONTACT: Jamison Prime, Office of Engineering and Technology, (202) 418–7474, TTY (202) 418–2989, e-mail: *jprime@fcc.gov* or Rodney Small, Office of Engineering and Technology, (202) 418–2452, TTY (202) 418–2989, e-mail *rsmall@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Remand, CC Docket No. 97–213, FCC 02–108, adopted April 5, 2002, and released April 11, 2002. The full text of this document is available on the Commission's internet site at *www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street., SW, Washington, DC 20554. The complete text of this document may be purchased from the Commission's duplication contractor, Qualex International, (202) 863–2893 voice, (202) 863–2898 Fax, qualexint@aol.com e-mail, Portals II, 445 12th St., SW, Room CY–B402, Washington, DC 20554.

Summary of Order on Remand

1. The Order on Remand adopts additional technical requirements for wireline, cellular, and broadband PCS carriers to comply with the assistance capability requirements prescribed by CALEA and sets a June 30, 2002 compliance date for carriers to provide these capabilities. Section 103(a) of CALEA requires that a telecommunications carrier shall ensure that its equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of isolating and providing to the government, pursuant to a lawful authorization, certain wire and electronic communications, including call-identifying information that is reasonably available to the carrier. Under section 107(a)(2) of CALEA (the ''safe harbor'' provision), carriers and manufacturers that comply with industry standards for electronic surveillance are deemed in compliance with their specific responsibilities under CALEA, but, if industry associations or standard-setting organizations fail to issue technical requirements or standards or if a Government agency or any other person believes that such requirements or standards are deficient, the Commission is authorized in response to a petition from any Government agency or person, to establish, by rule, technical requirements or standards. Under section 107 (b) of (CALEA) technical requirements or standards adopted by the Commission must meet the assistance capability requirements of section 103 by cost-effective methods; protect the privacy and security of communications not authorized to be intercepted; minimize the cost of such compliance on residential ratepayers; serve the policy of the United States to encourage the provision of new technologies and services to the public; and provide a reasonable time and conditions for compliance with and the transition to any new standard.

2. In the Third R&O, 14 FCC Rcd 16794, 64 FR 51710, September 24, 1999, the Commission required that

wireline, cellular, and broadband PCS carriers implement all electronic surveillance capabilities of the industry interim standard, J–STD–025 (''J-Standard'') and six of nine additional capabilities requested by DoJ/FBI, known as the ''punch list'' capabilities. With respect to the six required punch list capabilities, ''dialed digit extraction'' would provide to law enforcement agencies (''LEAs'') those digits dialed by a subject after the initial call setup is completed; ''party hold/join/drop'' would provide to LEAs information to identify the active parties to a conference call; ''subject-initiated dialing and signaling'' would provide to LEAs access to all dialing and signaling information available from the subject, such as the use of flash-hook and other feature keys; ''in-band and out-of-band signaling'' would provide to LEAs information about tones or other network signals and messages that a subject's service sends to the subject or associate, such as notification that a line is ringing or busy; ''subject-initiated conference calls'' would provide to LEAs the content of conference calls supported by the subject's service; and ''timing information'' would provide to LEAs information necessary to correlate call-identifying information with call content.

3. Several parties challenged the Commission's decision before the Court. In its August 15, 2000 Remand Decision, 227 F. 3d 450, the Court affirmed the Commission's findings in the Third R&O in part and vacated and remanded for further proceedings the Third R&O's decisions concerning four punch list capabilities (dialed digit extraction, party hold/join/drop messages, subject-initiated dialing and signaling information, and in-band and out-of-band signaling information).

4. Section 102(2) of CALEA defines ''call-identifying information'' as ''dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier.'' The J-Standard further interprets the key terms in this definition as follows: origin is the number of the party initiating the call (e.g., calling party); termination is the number of the party ultimately receiving a call (e.g., answering party); direction is the number to which a call is re-directed or the number from which it came, either incoming or outgoing (e.g., redirected-to party or redirected-from party); and destination is the number of the party to which a call in being made (e.g., called party). Although the J-Standard adopts definitions that frame call-identifying information in terms of telephone numbers, the Commission, in the Third R&O, found capabilities required under CALEA, in some cases, require carriers to disclose information that is not a telephone number. The Court held that CALEA is ambiguous as to precisely what constitutes call-identifying information and thus, what the CALEA requirements are. In cases where the intent of Congress is not clear, an agency may develop its interpretation of the statute within the guidelines set forth in Chevron v. National Resources Defense Counsel, Inc., 467 U.S. 837 (1984), and subsequent cases.

5. The J-Standard's definitions do not give all portions of CALEA full effect, and we are disinclined to interpret a statute in a manner that will render portions of it superfluous. The legislative history of CALEA does not clearly state Congress's intent with respect to the key terms at issue, and we think it would be implausible to read CALEA as providing for a more limited class of information than that which LEAs already receive. Nor do we find a basis for tying our interpretation of CALEA exclusively to a prior, separate statute, such as the Electronic Communications Privacy Act of 1986 (''ECPA''). In the Remand Decision, the Court stated that CALEA does not cross-reference or incorporate the definitions of pen registers and trap and trace devices in the ECPA. Moreover, the standards have been modified by such legislation as the USA PATRIOT Act, which expands the terms ''pen register'' and ''trap and trace device'' to include the concept of ''dialing, routing, addressing, or signaling information.''

6. We are adopting a definition of ''call-identifying information'' that replicates the existing electronic surveillance capability functions, but that is also expressed in sufficiently broad terms so as not to be limited to a specific network technology. This analysis is consistent with overall purpose expressed for the Act: CALEA was intended to preserve the ability of law enforcement officials to conduct electronic surveillance effectively and efficiently in the face of rapid advances in telecommunications technology. An example of this approach can be found in the Court's upholding of the provision of antenna location information, even though this capability has no structural equivalent in the traditional wireline architecture. Similarly, we note that there are many situations in which a party inputs dialing information that, in itself, is not a telephone number.

7. Although ''call-identifying information'' consists of both dialing and signaling information that may or may not be described in terms of telephone numbers, not all dialing and signaling information is ''call-identifying information.'' While some dialing or signaling information identifies the origin, direction, destination, or termination of a communication, other dialing or signaling information—such as a bank account number in a bank-by-phone system—clearly does not. Insofar as a ringing tone or a busy signal provides information that is descriptive of an origin, direction, destination, or termination a communication, that tone or signal ''identifies'' such a communication for purposes of CALEA and falls within CALEA's definition of ''call-identifying information.'' By contrast, call content does not identify the origin, termination, direction, and destination of a communication, and thus is not ''call identifying information'' for purposes of CALEA. Section 102(2) of CALEA defines call-identifying information as ''dialing or signaling information that identifies the origin, direction, destination, or termination'' of each call or communication. Thus, the origin, direction, destination, or termination is identified by call-identifying information, such as the caller's phone number. The J-Standard's definitions are deficient to the extent that they claim that a phone number is itself an origin, direction, destination, and termination.

8. In a simple two-way telephone call, the dialing or signaling information that identifies the ''origin'' of a communication is the calling party's telephone line (which is commonly identified by a telephone number). There are situations in which information other than a number is needed to identify the party initiating a call. For example, when a wireless phone is used to initiate a call, that origin may be identified by both the number assigned to the wireless phone and the location information of the antenna site to which the phone is connected. Because the origin pertains to a calling party, there may be multiple points in a telephone call scenario that give rise to information that identifies the origin of a communication.

9. We conclude that a ''termination'' is a party or place at the end of a communication path. The J-Standard defines ''termination'' in terms of the ''party ultimately receiving the call.'' Common practice as well as the industry's own technical standards suggest a broader definition that recognizes that a call can ''terminate''

when it reaches an identifiable stopping point in the network. The J-Standard shows a diagram where the surveillance subject (''S'') is connected to one party (''A''), while the other party (''B'') is on hold. As shown in the diagram, the communication path starting from party A terminates at S. However, as is also shown in the diagram, the communication path coming from the held party B terminates at the subject's switch, and not at the subject's line. This example also supports the proposition that a termination is not always identified by a telephone number because (1) a network switch is not a party in a call, and (2) a network switch is a point in the network with no directory telephone number. There can be multiple terminations within a single call because there are multiple points in a call at which there is information that identifies the called party.

10. A ''destination'' is a party or place to which a call is being made. We reach this definition after considering common and technical dictionary definitions of the term, as well as that provided by the J-Standard. Similarly, we agree with the J-Standard's general characterization of ''direction'' as a description of navigation within a network but reject the contention that this information is exclusively a telephone number. We find that the ''direction'' is, broadly speaking, information that identifies the path of communication.

11. Thus, we are defining the relevant terms as follows: origin is a party initiating a call (e.g., a calling party), or a place from which a call is initiated; destination is a party or place to which a call is being made (e.g., the called party); direction is a party or place to which a call is re-directed or the party or place from which it came, either incoming or outgoing (e.g., a redirected-to party or redirected-from party); and termination is a party or place at the end of a communication path (e.g., the called or call-receiving party, or the switch of a party that has placed another party on hold). These changes distinguish between origin, destination, direction, and termination, and the information that identifies them; permit multiple origins, destinations, directions, and terminations in a call; and provide for terminations inside a network switch or at another point within a network. Moreover, this approach defines call-identifying information in a manner that can be converted into actual network capabilities, unlike the definition suggested by DoJ/FBI.

12. Under sections 107(b)(1) and 107(b)(3) of CALEA, if the Commission finds that industry-established technical standards are deficient, it may establish standards that ''meet the assistance capability requirements of section 103 by cost-effective methods'' and ''minimize the cost of such compliance on residential ratepayers.'' The Court was unable to find a rational connection between the facts found and the choice made in the Third R&O. CALEA does not define ''cost-effective.'' One approach for determining whether something is ''cost-effective'' that is consistent with the Court's analysis in its Remand Decision is to compare two or more ways of accomplishing a task and identifying the process that is the least expensive. This approach is supported by the Commission's own rules, other statutes where Congress has defined or described the term, as well as in other agencies' rules. Thus, it makes sense to consider whether a particular option is better than some alternative at achieving some particular regulatory requirement, when such a comparison is available. We first inquire whether we have in the record an alternative means to accomplish each of the punch list capabilities.

13. When a punch list capability ''meet(s) the assistance capability requirements'' of CALEA, but there is no alternative means of accomplishing the same task, we will then consider whether the capability serves to minimize costs. In general, something is ''effective'' if it accomplishes a task in an efficient manner. However, we will not adopt or reject a capability solely on the basis of a cost-benefit analysis because Congress has already made such a calculation when it determined the assistance capability requirements of CALEA. There are costs associated with CALEA, and it is clear that Congress anticipated that carriers would bear some of these costs. However, as part of our examination of whether a technical standard that we require under CALEA is ''cost-effective,'' we will consider the financial burden it places on carriers. In the case of the punch list capabilities, we note that several aspects of the implementation program significantly mitigate this burden, which serves to make implementation of the punch list capabilities ''cost-effective'' for carriers. These features include DoJ/FBI cost reimbursement programs, buyout agreements with manufacturers to pay for all necessary software upgrades, and deferral of required punch list capabilities coincident with routine switch upgrades. Also, five telecommunications equipment manufacturers have incorporated all six punch list capabilities required by the Third R&O into one software upgrade, and it is unclear whether deleting one or more of these capabilities from that upgrade will lessen the cost of the upgrade to those carriers that purchase software from manufacturers that are not covered by the DoJ/FBI buyout agreements. Carriers may also recover at least a portion of their CALEA software and hardware costs by charging to LEAs, for each electronic surveillance order authorized by CALEA.

14. In considering the effect of CALEA compliance on residential ratepayers under section 107(b)(3) we look at the effect on residential wireline subscribers only. Although CALEA does not define the term ''residential ratepayers,'' floor debate emphasized concern over ''basic residential telephone service'' rates. Wireless telecommunications services such as cellular or PCS are intrinsically mobile services, and we have not previously attempted to describe what ''basic residential'' service is in the wireless context, nor have we differentiated between residential and other classes of wireless service. By contrast, the concept of ''residential ratepayer'' has historically been used in the context of rate regulation for wireline telecommunication service, which traditionally differentiates rates for residential and business customers. Other provisions of CALEA can only apply to wireline telecommunications carriers, as states do not have authority to regulate rates for commercial mobile radio services and the Commission has forborne from such rate regulation under legislation and Commission decisions that were adopted prior to CALEA.

15. The general approach we have taken with our analysis of ''cost-effective'' is applicable in considering ways of minimizing the impact on residential ratepayers. That which is ''cost-effective'' is also likely to correlate to the effect on residential ratepayers, and so many of the factors we have previously identified will apply in this context. We conclude that the capabilities that we have identified—and the means of implementing them—do serve to minimize the cost on residential ratepayers. To the extent that there are costs borne by the carriers and passed through to customers, we note that it is likely that the costs would be shared by all ratepayers and, therefore, would be significantly diluted on an individual residential ratepayer basis. The fact that costs are spread across such a large base in itself suggests another means by which provision of these capabilities will minimize the effect on residential ratepayers—that the cost of CALEA compliance for any

particular residential ratepayer will be minimal.

16. We note, however, that, even if the definition of ''residential taxpayers'' is broadened to include households that use wireless telephone service as a substitute for local wireline telephone service, there is no reason to believe that implementation of the punch list items would fail to minimize the cost on wireless residential ratepayers. In the Third R&O, the Commission found that five major telecommunications manufacturers—which account for the great majority of sales to wireline, cellular, and broadband PCS carriers in the United States—anticipated total revenues from carriers purchasing the four vacated punch list capabilities of about $277 million. Of this amount, about $159 million was anticipated in wireless revenues and about $117 million was anticipated in wireline revenues. While these figures do not include all carrier costs of implementing the four capabilities, in the Third R&O, we found that, relative to other cost/revenue estimates, the manufacturers' estimates were ''the most detailed and reliable.'' Further the FBI's buyout and flexible deployment programs, coupled with manufacturers incorporating all punch list capabilities into one software upgrade would likely lessen costs to such an extent that total costs of implementing the four vacated capabilities nationwide would be well below $159 million to wireless carriers and $117 million to wireline carriers. Nonetheless, assuming pessimistically that those costs would eventuate and that they would be passed on to wireless subscribers and residential wireline ratepayers in full as a one-time charge, the respective charge per wireless subscriber and residential wireline ratepayer would average about $1.45 and $1.20. Alternatively, if these costs to wireless and wireline carriers were converted to a rate increase to wireless subscribers and residential wireline ratepayers, the rate increase would average only pennies per month per subscriber/ratepayer. Accordingly, we find that the likely worst case cost impact of carriers implementing the four vacated capabilities would be minimal on both wireless subscribers and residential wireline taxpayers.

17. The dialed digit extraction capability would require the telecommunications carrier to provide to the LEA on the call data channel the identity of any digits dialed by the subject after connecting to another carrier's service (also known as ''post-cut-through digits''). The dialed digit extraction capability provides call-identifying information. Post-cut-through digits identify, under many circumstances, a communication's destination or a termination. For example, a party may dial a toll-free number to connect to a long distance carrier (e.g. 1–800–CALL–ATT) and subsequently enter another phone number to be connected to a party. That second number identifies a ''destination'' because it is ''a party or place to which a call is being made.'' If a successful connection is made, that second number also identifies a ''termination'' because it is the called or call-receiving party. A subject may also dial digits that are not call-identifying information—such as a bank account or social security number. However, many post-cut-through dialed digits simply route the call to the intended party and are, therefore, unquestionably call-identifying information even under a narrow interpretation of that term.

18. Section 103(a) of CALEA requires carriers to be capable of ''expeditiously isolating'' wire and electronic communications and call-identifying information to enable LEAs to obtain this information ''concurrently with their transmission from the subscriber's equipment, facility, or service. * * *'' (in the case of the interception of wire and electronic communications) or ''before, during, or immediately after the transmission of a wire or electronic communication'' (in the case of call-identifying information). Because of this timing requirement, we are rejecting the alternative of having a LEA serve the terminating carrier with a pen register order to obtain those dialed digits that were placed once a call has been cut-through from the originating carrier. Under such a process, the government would be unable to obtain call-identifying information concurrently with its transmission to or from a subscriber.

19. Dialed digit extraction is a capability that is ''reasonably available to the carrier'' under section 103 of CALEA. The J-Standard defines ''reasonably available'' as information ''present at an Intercept Access Point for call processing purposes.'' We reject the limitation that the information must be present ''for call processing purposes'' for it to be ''available.'' We read ''reasonably'' as a qualifier; if information is only accessible by significantly modifying a network, then we do not think it is ''reasonably'' available.

20. Section 107(b)(2) requires that any standards we require must ''protect the privacy and security of communications not authorized to be intercepted.'' There currently appears to be no technology that can separate those post-cut-through dialed digits from other post-cut-through dialed digits that are not call-identifying (i.e., that are call content). Because post-cut-through digits include call-identifying information, LEAs should be able to obtain this information under CALEA so long as they have a valid legal instrument. Although a Title III warrant—which would give a LEA call content—may be one such valid instrument, it is not up to us to decide whether it is the only one that could be used. Were we to conclude that a Title III warrant represents an alternative means of accomplishing the dialed digit extraction capability we would necessarily have to assume that a pen register does not entitle a LEA to dialed digit extraction. Such a decision would improperly usurp the role of the courts to decide what legal instrument is necessary to obtain the dialed digit information. Our approach is similar to the approach that we employed with respect to a packet-mode communications capability, which was upheld by the Court in the Remand Decision.

21. Because the standards we adopt must protect the privacy and security of communications not authorized to be intercepted, we reject the proposal to allow a LEA to extract dialed digits on content channels using their own decoders. This alternative is not acceptable because it would require the LEA in every case, no matter the level of authorization involved, to obtain the entire content when a less intrusive alternative (dialed digit extraction, whereby carriers separate out tone information) is available. This alternative would also shift from carriers to LEAs responsibility for ensuring that interceptions are conducted in a way that protects the privacy and security of communications not authorized for interception as much as possible. Such a result would be inconsistent with section 103(a)(4) of CALEA, which requires carriers to protect the privacy and security of communications and call-identifying information not authorized to be intercepted.

22. In order to respond to the appropriate legal authority, a carrier must have the ability to turn on and off the dialed digit extraction capability. We believe that a toggle feature for dialed digit extraction is necessary in order to protect privacy interests under certain circumstances, without disrupting the carrier's ability to provide other punch list capabilities included in the same software. We therefore conclude that carriers must have the equipment and software to

support a dialed digit extraction capability with a toggle feature. Where such a toggle feature will not be available from a carrier's vendor by the compliance deadline, that carrier may file a petition with the Commission under section 107(c), requesting an extension of the compliance deadline.

23. The party hold/join/drop messages capability would permit the LEA to receive from the telecommunications carrier messages identifying the parties to a conference call at all times. The party hold message would be provided whenever one or more parties are placed on hold. The party join message would report the addition of a party to an active call or the reactivation of a held call. The party drop message would report when any party to a call is released or disconnects and the call continues with two or more other parties. Under our revised definitions of the components of call-identifying information, party hold/join/drop information is call-identifying information because it identifies changes in the origin(s) and termination(s) of each communication generated or received by the subject. Further, by isolating call-identifying information in this manner, the LEA may more readily avoid monitoring the communications of third parties who are not privy to the communications involving the subject, thereby furthering privacy considerations. In the Third R&O, the Commission defined call-identifying information to be ''reasonably available'' to an originating carrier if such information ''is present at an [Intercept Access Point] and can be made available without the carrier being unduly burdened with network modifications.'' The J-Standard acknowledges that the network must recognize and process party hold/join/drop functions as part of its basic operation. Thus, we conclude that party hold/join/drop information is not only present at an Intercept Access Point but, because it is already being used by the carrier, satisfies the definition of ''reasonably available'' in the original version of the J-Standard.

24. The subject-initiated dialing and signaling information capability would permit the LEA to be informed when a subject sends signals or digits to the network. This capability would require the telecommunications carrier to deliver a message to the LEA, for each communication initiated by the subject, informing the LEA whenever the subject has invoked a feature during a call, including features that would place a party on hold, transfer a call, forward a call, or add/remove a party to a call. This capability constitutes call-identifying information because it provides information regarding the party or place to which a forwarded call is redirected and because it provides information regarding a waiting calling party. Signals such as on-hook, off-hook, and flash-hook signals, which are generated by a subject, are reasonably available to the carrier because they must be processed at the carrier's Intercept Access Point. DTMF signals generated by a subject that must be processed at the Intercept Access Point also are reasonably available to the carrier; however, some DTMF signals generated by the subject are post-cut-through digits, and those signals are covered under dialed digit extraction.

25. The in-band and out-of-band signaling information capability would enable a telecommunications carrier to send a notification message to the LEA when any call-identifying network signal (e.g., audible ringing tone, busy, call waiting signal, message light trigger) is sent to a subject. For example, if someone leaves a voice mail message on the subject's phone, the notification to the LEA would indicate the type of call-identifying network signal sent to the subject (e.g., stutter dial tone, message light trigger). For calls the subject originates, a notification message would also indicate whether the subject ended a call when the line was ringing, busy (a busy line or busy trunk), or before the network could complete the call. Authorizing this capability for call-identifying information that is based on network signals that originate on carriers' own networks conforms with CALEA. While certain types of signals used by carriers for supervision or control do not trigger any audible or visual message to the subscriber and are therefore not call-identifying information, other types of signals—such as ringing and busy tones—are call-identifying information under our revised definitions because they convey information about the termination of a call. For example, when a subject calls another party, until the called party answers the subject's communications path is terminated at an audible ringing tone generator. However, if the called party is engaged in another conversation and does not have call waiting, the subject's communications path is terminated at a busy signal generator. Thus, even for calls from the subject that are never answered, the fact that the subject hears busy or audible ringing signal provides call-identifying information that is not provided to law enforcement via other means. The J-Standard is inadequate in this regard. For example, the fact that a call attempt does not result in a conversation because the line is busy or because the called party does not answer does not mean that no ''communication'' has taken place. In-band and out-of-band signals that are generated at the carrier's Intercept Access Point toward the subscriber are handled by the carrier and are clearly available to the carrier at an Intercept Access Point, and convey call-identifying information. Because carriers already deliver this information to subscribers, we see no reason why it cannot also be made available to LEAs without significantly modifying the carrier's network. Thus, in-band and out-of-band signaling information is ''reasonably available.''

26. For each of the punch list items, Commenters have presented no alternative ways of obtaining all the information encompassed by this capability or those alternatives (in the case of dialed digit extraction) have deficiencies that make them unsatisfactory. Because there are no alternative means of accomplishing these objectives, we cannot engage in a cost-comparison analysis. Mechanisms such as the FBI's buyout and flexible deployment programs, coupled with five manufacturers incorporating all punch list capabilities into one software upgrade, will lessen software costs significantly, and including or not including any one of these capabilities may not significantly change carriers' costs. Because of these cost-mitigation measures, we find that it will be cost-effective to require these capabilities. For similar reasons, the capabilities are unlikely to significantly affect residential ratepayers. The aforementioned programs will serve to mitigate carriers' costs, which in turn will reduce the costs that carriers may pass on to ratepayers. Moreover, carriers will also be able to spread costs across a large ratepayer base and there is no indication that the compliance costs will be disproportionately borne by residential ratepayers. Although we have addressed privacy issues with respect to dialed digit extraction, we see no significant privacy issues arising from grant to LEAs of the remaining capabilities. No party to this proceeding challenged the Third R&O's decision with respect to those capabilities on privacy grounds, and the Court did not cite privacy as a basis for remanding to the Commission the Third R&O's decision with respect to that capability.

27. Section 107(b)(4) of CALEA—i.e., serve the policy of the United States to encourage the provision of new technologies and services to the public—was not briefed to or addressed by the Court in its Remand Decision. As

described in the legislative history, one of the key concerns in enacting CALEA was ''the goal of ensuring that the telecommunications industry was not hindered in the rapid development and deployment of the new services and technologies that continue to benefit and revolutionize society.'' Aside from one suggestion that the cost of compliance would divert capital from new technology deployment, no commenter has argued—nor is there anything in the record to suggest—that inclusion of the four punch list requirements would impede in any way the provision of new telecommunications technologies or services to the public or would delay in any manner the course or current pace of technology. Rather, the punch list requirements represent a technical solution that interfaces with the carriers' own network designs to provide LEAs with interception access and the capability to intercept wire and electronic communications. Additionally, as noted above, for the majority of switches, carriers will be permitted under the FBI's flexible deployment program to implement any required punch list capabilities coincident with routine switch upgrades. Moreover, we do not believe section 107(b)(4) was intended to bar a feature simply because it imposes costs on telecommunications companies and thereby might affect their other spending. The two express references to costs in section 107(b) (i.e., cost effectiveness and minimizing impact on residential ratepayers) consider cost in a relative, not an absolute, sense. Accordingly, we do not believe paragraph (b)(4) was intended to prohibit any feature because the cost might have some impact on telecommunications companies' other spending. Given this, we find that adoption of the punch list requirements is consistent with the United States' policy of encouraging the provision of new technologies and services to the public.

28. Section 107(b)(5) of CALEA requires that the Commission ''provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 103 during any transition period.'' The Third R&O required that the six punch list capabilities be implemented by wireline, cellular, and broadband PCS carriers by September 30, 2001 and five telecommunications switch manufacturers have incorporated all of these capabilities into one software upgrade. In the Order in this proceeding, which suspended the September 30, 2001 deadline for all punch list capabilities, including the two unchallenged capabilities (i.e., subject-initiated conference calls and timing information), we indicated that we anticipated establishing June 30, 2002 as the new compliance date for all required punch list capabilities as we expected to address the Court's Remand Decision by year's end and given that the record indicates that carriers can implement any required changes to their software within six months of our decision. We find it reasonable to require wireline, cellular, and broadband PCS carriers to implement all punch list capabilities by June 30, 2002, and conclude that the June 30, 2002 deadline will satisfy section 107(b)(5). At the initial stages of CALEA implementation, the Commission found that carriers could put into effect any required changes to their network within six months of its decision. We recognize that this is a more aggressive timetable than the six months we anticipated earlier. We believe that this accelerated compliance schedule is reasonable for this stage of the CALEA implementation, as carriers have been aware of the CALEA capabilities under consideration in the instant Order on Remand since October 2000. In addition, the record indicates that much of the software required to implement the punch list items has already been developed, which should significantly speed implementation. Finally, carriers have much greater experience in meeting CALEA's capability requirements than they had in 1998. Together, these factors make a shorter implementation timetable reasonable. Therefore, we are lifting the suspension of the punch list compliance deadline, and specifying the revised punch list compliance deadline as June 30, 2002.

29. We note that carriers who are unable to comply may seek relief under the applicable provisions of CALEA. The Wireline Competition Bureau (formerly, the Common Carrier Bureau) and the Wireless Telecommunications Bureau previously issued a Public Notice outlining the petitioning process for telecommunications carriers seeking relief under section 107(c) for an extension of the CALEA compliance deadline. Carriers seeking relief from the June 30, 2002 compliance date should follow the procedures outlined in that Public Notice. We further note that, in most cases, extensions that the Commission has already granted will apply to the capabilities we are requiring in this Order on Remand. As the Wireline Competition and Wireless Telecommunications Bureaus have previously stated: ''Unless the Commission action [granting an extension] specifies otherwise, the extension applies to all assistance capability functions, including punch list and packet-mode capabilities, at the listed facilities.''

Supplemental Final Regulatory Flexibility Analysis

(A) Need for and Purpose of This Action

30. As required by the Regulatory Flexibility Act (RFA),[1] the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the Further NPRM.[2] The Commission sought written public comments on the proposals in the Further NPRM, including the IRFA. In the Third R&O, the Commission adopted a Final Regulatory Flexibility Analysis (FRFA).[3] As part of the instant Order on Remand, we have prepared this Supplemental FRFA to conform to the RFA.[4]

31. The Third R&O responded to the legislative mandate contained in the Communications Assistance for Law Enforcement Act, Public Law 103–414, 108 Stat. 4279 (1994) (codified as amended in sections of 18 U.S.C. and 47 U.S.C.). The Commission, in compliance with 47 U.S.C. 229, promulgates rules in this Order on Remand to ensure the prompt implementation of section 103 of CALEA. This action simply responds to an Order of the United States Court of Appeals for the District of Columbia Circuit (the ''Court'') and puts into effect rules we originally evaluated as part of the FRFA in the Third R&O. Also, as noted, we have already done a FRFA for the rules at issue in the Third R&O.

32. In enacting CALEA, Congress sought to balance three key policies with CALEA: ''(1) to preserve a narrowly focused capability for law enforcement agencies to carry out properly authorized intercepts; (2) to protect privacy in the face of increasingly powerful and personally revealing technologies; and (3) to avoid impeding the development of new communications services and

[1] *See* 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] Communications Assistance for Law Enforcement Act, *Further Notice of Proposed Rulemaking*, 13 FCC Rcd 22632, 22695–703 (1998).

[3] Communications Assistance for Law Enforcement Act, *Third Report and Order*, CC Docket No. 97–213, 14 FCC Rcd 16794, 16852–59 (1999).

[4] *See* 5 U.S.C. 604.

technologies.'' [5] The rules adopted in this Order on Remand implement Congress's goal to balance the three key policies enumerated above. The objective of the rules is to implement as quickly and effectively as possible the national telecommunications policy for wireline, cellular, and broadband PCS telecommunications carriers to support the lawful electronic surveillance needs of law enforcement agencies in a manner that is responsive to the Court's remand of the Third R&O.

(B) Summary of the Issues Raised by Public Comments

33. In the Further NPRM, the Commission performed an IRFA and asked for comments that specifically addressed issues raised in the IRFA. No parties filed comments directly in response to the IRFA. Similarly, as part of the pleading cycle that followed the Court's remand of the Third R&O, no parties filed comments directly in response to the IRFA or the FRFA. In response to non-RFA comments filed in this docket, the Commission modified several of the proposals made in the Further NPRM. These modifications include changes to packet switching, conference call content, in-band and out-of-band signaling, and timing information, as first discussed in the Third R&O.

34. The Commission's effort to update the record in response to the Court's Remand Order resulted in additional non-RFA comments. The Rural Cellular Association (RCA) asserts that the costs of additional communications assistance capabilities would impose undue cost burdens on and jeopardize the efficient planning and development of facilities by small and rural carriers. Similarly, the National Telephone Cooperative Association (NTCA) claims that any regulation which requires carriers to deploy or upgrade facilities disproportionally affects small and rural carriers.

(C) Description and Estimate of the Number of Entities Affected

35. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the action taken.[6] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [7] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[8] A small business concern is one that: (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).[9] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [10] Nationwide, as of 1992, there were approximately 275,801 small organizations.[11] Finally, ''small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' [12] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[13] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[14] The United States Bureau of the Census (Census Bureau) estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

36. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide appears to be data the Commission publishes annually in its Telecommunications Provider Locator report, derived from filings made in connection with the Telecommunications Relay Service (TRS).[15] According to data in the most recent report, there are 5,679 interstate service providers.[16] These providers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

37. We have included small incumbent local exchange carriers (LECs) [17] in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' [18] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope.[19] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

38. Total Number of Telecommunications Entities Affected. The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[20] This number contains a variety of different categories of entities, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' [21] For example, a PCS provider that is affiliated with an

[5] H.R. Rep. No. 103–827, 103rd Cong., 2d Sess (1994) at 13.

[6] 5 U.S.C. 603(b)(3).

[7] *Id.*, 601(6).

[8] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[9] Small Business Act, 15 U.S.C. 632.

[10] 5 U.S.C. 601(4).

[11] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[12] 5 U.S.C. 601(5).

[13] U.S. Dept. of Commerce, Bureau of the Census, ''1992 Census of Governments.''

[14] *Id.*

[15] FCC, Common Carrier Bureau, Industry Analysis Division, *Telecommunications Provider Locator*, Tables 1–2 (November 2001) (*Provider Locator*). This report is available on-line at: *http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/Locator/locat01.pdf. See also* 47 CFR 64.601 *et seq.*

[16] *Provider Locator* at Table 1.

[17] *See* 47 U.S.C 251(h) (defining ''incumbent local exchange carrier'').

[18] 15 U.S.C. 632.

[19] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b).

[20] United States Dept. of Commerce, Bureau of the Census, *1992 Census of Transportation*, Communications, and Utilities: Establishment of Firm Size, at Firm Size 1–123 (1995) (''1992 Census'').

[21] 15 U.S.C. 632(a)(1).

interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the actions taken in this Order on Remand.

39. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for wired telecommunications carriers. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[22] According to the SBA's definition, such a small business telephone company is one employing no more than 1,500 persons.[23] All but 26 of the 2,321 wireline companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Even if all 26 of the remaining companies had more than 1,500 employees, there would still be 2,295 wireline companies that might qualify as small entities. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Therefore, we estimate that fewer than 2,295 communications wireline companies are small entities that may be affected by these rules.

40. Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers. Neither the Commission nor the SBA has developed a specific size standard definition for small LECs, competitive access providers (CAPS), interexchange carriers (IXCs), operator service providers (OSPs), payphone providers, or resellers. The closest applicable size standard for these carrier-types under SBA rules is for wired telecommunications carriers and telecommunications resellers.[24] The most reliable source of information that we know regarding the number of these carriers nationwide appears to be the data that we collect annually in connection with the TRS.[25] According to our most recent data, there are 1,329 LECs, 532 CAPs, 229 IXCs, 22 OSPs, 936 payphone providers, and 710 resellers.[26] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under the SBA's definition. Therefore, we estimate that there are fewer than 1,329 small entity LECs or small incumbent LECs, 532 CAPs, 229 IXCs, 22 OSPs, 936 payphone providers, and 710 resellers that may be affected by these rules.

41. Wireless Carriers. The applicable definition of a small entity wireless carrier is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The Census Bureau reports that there were 1,176 radiotelephone (wireless) companies in operation for at least one year at the end of 1992, of which 1,164 had fewer than 1,000 employees.[27] Even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. It seems certain that some of these carriers are not independently owned and operated. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the actions taken in this Order on Remand.

42. Cellular, PCS, SMR and Other Mobile Service Providers. The most reliable source of current information from which we can draw an estimate of the number of small business commercial wireless entities appears to be data the Commission published annually in its Trends in Telephone Service report.[28] According to the most recent Trends Report, 806 carriers reported that they were engaged in the provision of cellular service, PCS services, or SMR telephony services, which are placed together in the data.[29] Moreover, 323 such licensees in combination with their affiliates have 1,500 or fewer employees and thus qualify as ''small businesses'' under the above definition. Thus, we estimate that there are 323 or fewer small wireless service providers that may be affected by the rules we adopt in this proceeding.

(D) Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.

43. No reporting and recordkeeping requirements are imposed on telecommunications carriers. Telecommunications carriers, including small carriers, will have to upgrade their network facilities to provide to law enforcement the assistance capability requirements adopted herein. Although compliance with the technical requirements will impose costs on carriers, we have examined means by which these costs will be minimized (such as by federal cost-reimbursement mechanisms and the ability of carriers to charge for the provision of assistance capability services). The most detailed and reliable cost estimates for carriers to implement the assistance capability features we require herein are $159 million total for wireless carriers and $117 million for wireline carriers, including small entities. However, as discussed in paragraph 65, supra, we expect the actual costs borne by carriers to be substantially lower after the application of the cost-minimization provisions discussed above.

(E) Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.

44. The need for the regulations adopted herein is mandated by Federal legislation. In the regulations we adopt, we affirm our proposals in the Further NPRM to establish regulations for wireline, cellular, and broadband PCS telecommunications carriers. Costs to telecommunications carriers will be mitigated in several ways. For example, the final regulations require telecommunications carriers to make available to law enforcement call identifying information when it can be done without unduly burdening the carrier with network modifications, thus allowing cost to be a consideration in determining whether the information is ''reasonably available'' to the carrier and can be provided to law enforcement. Thus, compliance with the assistance capability requirements of CALEA will be reasonable for all carriers, including small carriers. Also, under CALEA, some carriers will be able to request reimbursement from the Department of Justice for network upgrades to comply

[22] *1992 Census* at Firm Size 1–123 (based on previous SIC codes).

[23] 13 CFR 121.201, North American Industry Classification System (NAICS) code 513310. The category of Telecommunications Resellers, NAICS code 513330 also has an associated business size standard of 1,500 or fewer employees.

[24] 13 CFR 121.201, NAICS codes 513310 and 513330.

[25] *See* 47 CFR 64.601 *et seq.*; *Provider Locator* at Table 1.

[26] *Provider Locator* at Table 1. The total for resellers includes both toll resellers and local resellers.

[27] 1992 Census at Firm Size 1–123.

[28] Trends in Telephone Service, Common Carrier Bureau, Industry Analysis Division (Aug. 2001) (''Trends Report''). This report is available on-line at: http://www.fcc.gov/Bureaus/Common__Carrier/Reports/FCC-State__Link/IAD/trend801.pdf

[29] Trends Report, Table 5.3.

with the technical requirements adopted herein, and others may defer network upgrades to their normal business cycle.

45. We believe that these provisions can serve to mitigate any additional cost burdens that would otherwise be borne by small carriers. The Commission considered several alternatives advanced by commenters in the proceeding—including not requiring the assistance capabilities adopted herein—but rejected them after concluding that they would not meet the statutory requirements of CALEA. We note that the statutory mandate under CALEA requires all carriers to provide assistance capabilities, and this includes small entities. Thus, we must rely on cost-mitigation procedures to address NTCA's assertion that any regulation that requires carriers to deploy or upgrade facilities will disproportionally affect small carriers.

Report to Congress

46. The Commission will send a copy of this Supplemental FRFA, along with this Order on Remand, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Order on Remand, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order on Remand, including the Supplemental FRFA, will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Ordering Clauses

47. Authority for issuance of this Order on Remand is contained in sections 1, 4, 229, 301, 303, and 332 of the Communications Act of 1934, as amended, and section 107(b) of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 151, 154, 229, 301, 303, 332, and 1006(b).

48. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order on Remand, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 22, 24 and 64

Communications common carriers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 22, 24 and 64 as follows:

PART 22—MOBILE SERVICES

1. The authority citation in part 22 continues to read:

Authority: 47 U.S.C. 154, 222, 303, 309 and 332.

2. Section 22.1102 is amended by adding definitions in alphabetical order to read as follows:

§ 22.1102 Definitions.

* * * * *

Destination. A party or place to which a call is being made (e.g., the called party).

* * * * *

Direction. A party or place to which a call is re-directed or the party or place from which it came, either incoming or outgoing (e.g., a redirected-to party or redirected-from party).

* * * * *

Origin. A party initiating a call (e.g., a calling party), or a place from which a call is initiated.

* * * * *

Termination. A party or place at the end of a communication path (e.g. the called or call-receiving party, or the switch of a party that has placed another party on hold).

* * * * *

3. Section 22.1103 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 22.1103 Capabilities that must be provided by a cellular telecommunications carrier.

* * * * *

(b) As of November 19, 2001, a cellular telecommunications carrier shall provide to a LEA communications and call-identifying information transported by packet-mode communications.

(c) As of June 30, 2002, a cellular telecommunications carrier shall provide to a LEA the following capabilities:

(1) Content of subject-initiated conference calls;

(2) Party hold, join, drop on conference calls;

(3) Subject-initiated dialing and signaling information;

(4) In-band and out-of-band signaling;

(5) Timing information;

(6) Dialed digit extraction, with a toggle feature that can activate/deactivate this capability.

PART 24—PERSONAL COMMUNICATIONS SERVICES

4. The authority citation in part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332.

5. Section 24.902 is amended by adding definitions in alphabetical order to read as follows:

§ 24.902 Definitions.

* * * * *

Destination. A party or place to which a call is being made (e.g., the called party).

* * * * *

Direction. A party or place to which a call is re-directed or the party or place from which it came, either incoming or outgoing (e.g., a redirected-to party or redirected-from party).

* * * * *

Origin. A party initiating a call (e.g., a calling party), or a place from which a call is initiated.

* * * * *

Termination. A party or place at the end of a communication path (e.g. the called or call-receiving party, or the switch of a party that has placed another party on hold).

* * * * *

6. Section 24.903 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 24.903 Capabilities that must be provided by a broadband PCS telecommunications carrier.

* * * * *

(b) As of November 19, 2001, a broadband PCS telecommunications carrier shall provide to a LEA communications and call-identifying information transported by packet-mode communications.

(c) As of June 30, 2002, a broadband PCS telecommunications carrier shall provide to a LEA the following capabilities:

(1) Content of subject-initiated conference calls;

(2) Party hold, join, drop on conference calls;

(3) Subject-initiated dialing and signaling information;

(4) In-band and out-of-band signaling;

(5) Timing information;

(6) Dialed digit extraction, with a toggle feature that can activate/deactivate this capability.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

7. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 151, 154, 201, 202, 205, 218–220, and 332 unless otherwise noted. Interpret or apply sections 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201–204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

8. Section 64.2202 is amended by adding definitions in alphabetical order to read as follows:

§ 64.2202 Definitions.

* * * * *

Destination. A party or place to which a call is being made (e.g., the called party).

* * * * *

Direction. A party or place to which a call is re-directed or the party or place from which it came, either incoming or outgoing (e.g., a redirected-to party or redirected-from party).

* * * * *

Origin. A party initiating a call (e.g., a calling party), or a place from which a call is initiated.

* * * * *

Termination. A party or place at the end of a communication path (e.g. the called or call-receiving party, or the switch of a party that has placed another party on hold).

* * * * *

9. Section 64.2203 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 64.2203 Capabilities that must be provided by a wireline telecommunications carrier.

* * * * *

(b) As of November 19, 2001, a wireline telecommunications carrier shall provide to a LEA communications and call-identifying information transported by packet-mode communications.

(c) As of June 30, 2002, a wireline telecommunications carrier shall provide to a LEA the following capabilities:

(1) Content of subject-initiated conference calls;

(2) Party hold, join, drop on conference calls;

(3) Subject-initiated dialing and signaling information;

(4) In-band and out-of-band signaling;

(5) Timing information;

(6) Dialed digit extraction, with a toggle feature that can activate/deactivate this capability.

[FR Doc. 02–10832 Filed 5–1–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010313063-1297-02; I.D. 121200A]

RIN 0648-AO20

Fisheries of the Exclusive Economic Zone off Alaska; Revisions to Recordkeeping and Reporting Requirements

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

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule that was published in the Federal Register on January 28, 2002 (67 FR 4100), which revised certain recordkeeping and reporting (R&R) requirements for groundfish fisheries in the Exclusive Economic Zone off Alaska. This action is necessary to correct errors and omissions that occurred in the final rule.

DATES: Effective May 1, 2002.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION:

Background

A final rule was published in the Federal Register on January 28, 2002 (67 FR 4100) (R&R rule) to revise certain provisions of the recordkeeping and reporting (R&R) requirements for groundfish fisheries in the Exclusive Economic Zone off Alaska. This rule makes minor corrections to that final rule and corrects errors caused by conflicts with the Steller Sea Lion Emergency Rule (67 FR 956, January 8, 2002) (SSL Rule). Specifically, some paragraphs are redesignated for consistency between the SSL Rule and the R&R final rule; Table 9 is republished to reflect VMS changes made in the SSL rule; the footnote numbers in Table 10 are correctly sequenced; and Table 11 is republished to reflect changes to groundfish species group descriptions made in the 2002 Harvest Specifications (67 FR 956, January 8, 2002).

Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment under the authority set forth at 5 U.S.C. 553(b)(3)(B). Rationale for this finding is that prior notice and comment are unnecessary because the terms this action changes will have no substantive effect on the regulated public. This action does not substantively alter the regulations. The changes are considered to be minor technical amendments that involve little exercise of agency discretion. Further, prior notice and comment would be contrary to the public interest because it would prolong the inaccurate language that currently exists in the regulations. Therefore, the Assistant Administrator for Fisheries, NOAA, waives the 30-day delay in effective date under 5 U.S.C. 553(d).

Need for Corrections

The final rule, FR Doc. 02-1875, published in the issue of January 28, 2002 (67 FR 4100), is corrected as follows:

CORRECTIONS TO TABLES

What is the correction?	Why is the correction necessary?
On page 4142, Table 9, last line is corrected by removing ''Atka mackerel or AFA pollock'' and adding in its place ''Atka mackerel, pollock, or Pacific cod''.	VMS requirements were established in the SSL final rule for pollock, Pacific cod, and Atka mackerel. This change to Table 9 was inadvertently omitted from the R&R rule and is corrected.
On pages 4143 through 4145, Table 10 is corrected by removing the incorrect table and adding in its place a correct version.	In the final rule, target species descriptions were moved from the temporary annual specifications to the footnotes of Table 10 to this part. The basis species are reordered by species code number in numerical order; as a result the footnote numbers are revised for correct sequencing.