Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of 911 Act	)	WT Docket No. 00-110
	)	
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	)	CC Docket No. 92-105
	)	

FOURTH REPORT AND ORDER AND THIRD NOTICE OF PROPOSED RULEMAKING
CC Docket No. 92-105
NOTICE OF PROPOSED RULEMAKING
WT Docket No. 00-110

Adopted: August 24, 2000 **Released: August 29, 2000**

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By the Commission:

TABLE OF CONTENTS

Paragraph Number

I. INTRODUCTION AND SUMMARY 1

II. BACKGROUND 4

III. FOURTH REPORT AND ORDER AND THIRD NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 92-105 8

A. Order Establishing Universal Emergency Telephone Number 8
B. Notice of Proposed Rulemaking on Transition Periods for Areas in Which 911 Is Not in Use as an Emergency Telephone Number 15

IV. NOTICE OF PROPOSED RULEMAKING IN WT DOCKET NO. 00-110 23

A. Commission Efforts to Encourage and Support Deployment of Comprehensive End-to-End Emergency Communications Infrastructure and Programs 23

V. PROCEDURAL ISSUES 28

A. Final Regulatory Flexibility Act Statement 28

B. Initial Regulatory Flexibility Analysis 29
C. Paperwork Reduction Analysis 31
D. *Ex Parte* Presentations 34
E. Comment Filing Dates and Procedures 35
F. Further Information 38

VI. ORDERING CLAUSES 39

Appendix A – Initial Regulatory Flexibility Analysis, Third Notice of Proposed Rulemaking, CC Docket No. 92-105
Appendix B – Initial Regulatory Flexibility Analysis, Notice of Proposed Rulemaking, WT Docket No. 00-110

I. INTRODUCTION AND SUMMARY

1. Today, we take important steps to implement the Wireless Communications and Public Safety Act of 1999 (911 Act), enacted on October 26, 1999.[1] The purpose of the 911 Act is to enhance public safety by encouraging and facilitating the prompt deployment of a nationwide, seamless communications infrastructure for emergency services that includes wireless communications.[2] To ensure a comprehensive approach to emergency service throughout the country, the 911 Act directs us to make 911 the universal emergency number for wireline and wireless telephone service and to establish appropriate transition periods for areas in which 911 is not in use as an emergency telephone number on the date of enactment of the 911 Act. It further directs us to encourage and support the States in developing comprehensive emergency communications throughout the United States so that all jurisdictions offer seamless networks for prompt emergency service.

2. We initiate this proceeding to address the provisions of the 911 Act and to fulfill the Congressional mandates set forth therein. Specifically, we:

- Designate 911 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance, effective upon the release of this Order.
- Seek comment on appropriate transition periods for areas in which 911 is not currently in use as an emergency number, including service area-specific circumstances and capabilities that we should address before carriers can deploy 911 as the uniform emergency number.
- Seek comment on how we should facilitate States' efforts to deploy comprehensive emergency communications systems, such as through guidelines, meetings, or other information-sharing measures, in a manner that does not impose obligations or costs on any person.

3. In taking these steps, we seek to ensure that the Congressional goals for an expanded and improved nationwide emergency communications system are implemented expeditiously, effectively, and efficiently. Picking up the telephone is usually the first and most important thing to do when an emergency strikes. Making 911 the universal emergency number for both wireline and wireless services and promoting the use of technologies that help emergency service providers locate wireless 911 callers will improve the nation's emergency 911 communications systems and save lives.

II. BACKGROUND

4. The overall purpose of the 911 Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for

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[1] Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, enacted Oct. 26, 1999, 113 Stat. 1286, amending the Communications Act of 1934, 47 U.S.C. §§ 222, 251. (911 Act).

[2] 911 Act at Section 2(b). The wireless communications in the 911 Act are those provided by a wireless carrier that the 911 Act defines as "a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless 911 service." 911 Act at Section 6(3). As discussed below, those providers are at present limited to certain commercial mobile radio services (CMRS) carriers. *See* below, at para. 6.

emergency communications, including wireless communications, to meet the nation's public safety and other emergency communications needs.[3] Congress found that the establishment of a network that provided for the rapid, efficient deployment of emergency services would result in many public benefits.[4] These benefits include faster delivery of emergency care with reduced fatalities and severity of injuries, and improved service in rural areas.

5. In our increasingly mobile society, Congress noted the increased reliance on wireless phones in emergency situations and the problems wireless 911 callers experience in obtaining prompt, reliable aid to the same extent as wireline 911 callers.[5] According to Congressional reports accompanying the enactment of the 911 Act, more than 74 million Americans subscribe to wireless telephone service to supplement or replace wireline telephone service, and more than 36 million calls are placed to 911 on wireless phones annually.[6] On the roadways, consumers are using these phones to call for help for themselves, to report accidents or injuries to other drivers, and to report erratic or aggressive drivers before others are injured. Congress was concerned that, although deaths from motor vehicle crashes have been declining in recent years, deaths at the scene prior to receiving emergency medical care have doubled in the past 20 years to more than 20,000 per year.[7]

6. The Commission has adopted rules requiring certain wireless carriers to provide both Basic 911 service, which connects the caller to a Public Safety Answering Point (PSAP), and, over time, Enhanced 911 (E911) service, which provides certain information to assist the PSAP in locating the caller.[8] The wireless carriers subject to the rules are those categories of carriers engaged in CMRS that provide established telephone services with access to emergency services and that offer real-time, two-way switched voice service.[9] Congress found that, despite the important steps taken by the Commission,

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[3] 911 Act at Section 2(b).

[4] 911 Act at Section 2(a).

[5] H.R. Rep. No. 106-25, at 5-9 (1999) (House Report); S. Rep. No. 106-138, at 1-2 (1999) (Senate Report).

[6] House Report at 8; Senate Report at 1. These figures have increased significantly in the latest update of statistics provided by the Cellular Telecommunications Industry Association (CTIA). According to CTIA's survey, the annual figures for 1999 indicate a total of 86 million subscribers that placed more than 43 million distress, or 911, calls. Currently, the total number of subscribers has increased to more than 101million. CTIA website, http://www.wow-com.com (Aug. 24, 2000).

[7] House Report at 5.

[8] Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, RM-8143, Notice of Proposed Rule Making, 9 FCC Rcd 6170 (1994) (*E911 NPRM*); Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996) (*E911 First Report and Order*) (adopting 47 C.F.R. § 20.18); Memorandum Opinion and Order, 12 FCC Rcd 22665 (1997) (*E911 First Reconsideration Order*); Second Report and Order, 14 FCC Rcd 10954 (1999) (*E911 Second Report and Order*); Third Report and Order, 14 FCC Rcd 17388 (1999) (*E911 Third Report and Order*); Second Memorandum Opinion and Order, 14 FCC Rcd 20850 (1999) (*E911 Second Reconsideration Order*); Third Memorandum Opinion and Order, 15 FCC Rcd 1144 (2000) (*E911 Third Reconsideration Order*).

[9] These carriers are licensees of Broadband Personal Communications Services, Cellular Radio Telephone Service, and wide-area Specialized Mobile Radio Services. 47 C.F.R. § 20.18(a). We declined to impose specific regulatory requirements on those classes of CMRS licensees with evolving real-time, two-way voice communications that have not fully developed their commercial services, such as Mobile Satellite Services, and (continued....)

few areas in the country were served by wireless systems operating under our E911 requirements and that E911 service currently is not deployed on many wireless systems.[10] Accordingly, in the 911 Act, Congress included several provisions to achieve improvements in the wireless emergency communications system provided by the wireless carriers covered by our rules.[11]

7. Below, we address the designation of 911 as the universal emergency services number for both wireline and wireless services, appropriate transition periods, and how this Commission can encourage and support the States in their deployment of comprehensive emergency communications systems. We also find that the liability protection provisions of the 911 Act are self-executing and that we do not need to adopt rules or otherwise seek comment on those provisions of the 911 Act. Section 4 of the 911 Act confers liability protection on wireless carriers as defined by the 911 Act, users of wireless 911, and PSAPs engaged in wireless 911 that is not less than that of wireline carriers, users of wireline 911, and PSAPs engaged in wireline 911 under applicable law.[12] We find that, by its terms, Section 4 conferred those immunity provisions as of the effective date of the 911 Act - October 26, 1999. Furthermore, we defer consideration of two additional provisions in Section 5 of the 911 Act. These provisions amend Section 222 of the Communications Act, which addresses customer proprietary network information (CPNI) and subscriber list information.[13] We find that these provisions are better addressed in our current CPNI and subscriber list information proceedings and, accordingly, we do not discuss them here.

III. FOURTH REPORT AND ORDER AND THIRD NOTICE OF PROPOSED RULEMAKING IN CC DOCKET NO. 92-105

A. Order Establishing Universal Emergency Telephone Number

8. **Background.** Section 251(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), gives the Commission exclusive jurisdiction over numbering administration, and over those portions of the North American Numbering Plan (NANP) that

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expected that they would coordinate efforts with public safety agencies as they develop to achieve acceptable emergency access services. *E911 First Report and Order*, 11 FCC Rcd at 18716-18 (paras. 80-84), *E911 First Reconsideration Order*, 12 FCC Rcd at 22706-08 (paras. 87-89). We are examining whether to impose our wireless 911 rules on certain satellite licensees. The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, IB Docket No. 99-81, Notice of Proposed Rulemaking, 14 FCC Rcd 4843, 4884-86 (1999), Report and Order, FCC 00-302, adopted Aug. 14, 2000, released Aug. 25, 2000; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements, IB Docket No. 99-67, Notice of Proposed Rulemaking, 14 FCC Rcd 5871, 5907-08 (1999).

[10] House Report at 7-8; Senate Report at 8.

[11] *See* above at para. 6 n.9.

[12] 911 Act at Section 4.

[13] 911 Act at Section 5 (amending section 222 by, inter alia, adding new sections 47 U.S.C. § 222(d)(4), (f) [concerning CPNI] and 47 U.S.C § 222(g) [concerning subscriber information, both listed and unlisted]). We also note that in redesignating former section 47 U.S.C. § 222(f) as section 47 U.S.C. § 222(h), the 911 Act amended or added definitions. 47 U.S.C. § 222(h)(1)(A), (h)(4)-(7).

pertain to the United States.[14] This section also provides that the Commission may delegate all or part of its numbering administration authority to State commissions or other entities.[15] The 911 Act further amends this section by directing the Commission to designate 911 "as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance."[16]

9. 911 has a long history of use as the wireline emergency access number in a large portion of the country. AT&T initially designated 911 for wireline access to emergency services in the late 1960's. In the *N11 First Report and Order*, the Commission found that the 911 designation for emergency services served the public interest and should not be disturbed.[17] In fact, the Commission found the use of 911 was virtually ubiquitous and of long-standing nationwide status as the wireline national code for quick and easy access to emergency services.[18] State and local authorities have worked with telecommunications carriers to use the 911 abbreviated dialing code to access increasingly advanced and effective emergency service capabilities.[19]

10. In the *N11 First Report and Order* relating to the use of N11 codes, the Commission authorized incumbent local exchange carriers (LECs), States, and the administrator of the NANP to continue to perform N11 code administrative functions that they were performing at the time of enactment of the 1996 Act.[20] In the *N11 First Report and Order*, the Commission also assigned 311 to be used for access to non-emergency police services.

11. **Discussion.** In this Order, consistent with the statutory mandate, we designate 911 as the national emergency telephone number to be used for reporting emergencies and requesting emergency assistance.[21] The 911 abbreviated dialing code shall be deployed ubiquitously by carriers throughout the

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[14] 47 U.S.C. § 251(e)(1). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (amending the Communications Act of 1934, 47 U.S.C. §§ 151 *et. seq.*).

[15] 47 U.S.C. § 251(e)(1). The section also required the Commission to designate an impartial entity to administer telecommunications numbering. Subsequently, we established rules and procedures to govern administration functions under a neutral third-party North American Numbering Plan Administrator. 47 C.F.R. §§ 52.7 *et seq.*

[16] 911 Act at Section 3(a), 47 U.S.C. § 251(e)(3).

[17] The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 5572, 5586 (para. 23) and 5595 (para. 36) (1997) (*N11 First Report and Order*).

[18] *Id.* at 5586 (para. 23).

[19] *E911 First Report and Order*, 12 FCC Rcd at 18678 (paras. 1-2).

[20] *N11 First Report and Order*, 12 FCC Rcd 5572, 5579 (para. 13).

[21] Petition filed by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation Systems (ITS) Services Nationwide, NSD-L-99-24; Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information & Referral Services, and the Texas I&R Network for assignment of 211 Dialing Code, NSD L-98-80; The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, FCC 00-256, adopted July 21, 2000, released July 31, 2000, at para. 43 (stating that once the Commission designates N11 for (continued....)

United States for use with both wireline and wireless telecommunications services that provide access to local emergency service providers. Based on the statutory requirement that 911 be designated as the universal emergency telephone number, wireline and wireless carriers must make 911 available to their subscribers as the number to call in an emergency after the effective date of the designation and the end of appropriate transition periods. We note that the 911 Act does not require a State or locality to establish an emergency service.[22] As a result, in designating 911 pursuant to the 911 Act, we are not requiring States and localities to implement 911 as the emergency assistance number where they do not have 911 service.

12. Adopting a nationwide emergency number will improve prompt notification of emergency services and will improve public safety.[23] A nationwide emergency number is particularly helpful for travelers and new residents. It will eliminate the need for wireless telephone users to know or remember different telephone numbers or alternate abbreviated dialing arrangements in an emergency situation. It will also eliminate the need to learn a new emergency number upon moving across the community or across the country.

13. We note that the 911 Act provides that 911 is "for reporting an emergency to appropriate authorities and requesting assistance." The 911 Act's definitions for PSAP and wireless 911 service are consistent with established definitions of 911 emergency services.[24] We conclude, therefore, that the 911 Act did not alter either the established distinctions between the purposes of 311 and 911, respectively, or the ability of localities to use 311 as the designated national code for access to non-emergency police and other government services. Moreover, insofar as non-emergency numbers are concerned, we encourage the industry to continue to make innovative and effective use of alternate abbreviated dialing arrangements for non-emergency uses until we earmark them for specific purposes. For example, there may be localities that use such arrangements as "*77" to access roadside assistance in a non-emergency situation. We find that such uses are consistent with the designation of 911 as the universal emergency telephone number and, indeed, may assist emergency services personnel in better responding to emergency situations.

14. In making this designation of 911 as the universal emergency telephone number, we reaffirm Congress' goal of providing telephone users of wireline and wireless services access to emergency services with the same immediate contact, using 911, throughout the United States in localities that have such services. Designating 911 as the national emergency number will serve the public interest by minimizing consumer confusion over the number to call in an emergency.[25] Nationwide implementation of the 911 abbreviated dialing code will further the Commission's commitment to maintain 911 for access to emergency services. This designation shall be effective upon release of this Order.

(Continued from previous page)
national use, essentially all that remains to do is to implement that assignment and monitor the use of the N11 codes).

[22] In the legislative history accompanying the 911 Act, Congress stated that, in our implementation of the requirement that wireless and wireline carriers offer 911 as the number to call in an emergency, "[n]othing in this section is intended to impose an obligation on States or localities." House Report at 13.

[23] Senate Report at 5; House Report at 2.

[24] 911 Act at Section 6.

[25] House Report at 13.

B. Notice of Proposed Rulemaking on Transition Periods for Areas in Which 911 Is Not in Use as an Emergency Telephone Number

15. **Background**. The 911 Act provides that the Commission shall designate 911 as the universal emergency telephone number within the United States for both wireline and wireless telephone service. It further directs the Commission, in designating 911, to "provide appropriate transition periods for areas in which 911 is not in use as an emergency telephone number."[26]

16. The deployment of 911 emergency service as it is generally known in this country has two primary components. First, all telecommunications carriers' equipment (including switching and signaling equipment) must recognize the abbreviated dialing code "911" and direct such calls along with certain other necessary signaling and location information to the pre-designated or specified location where personnel are available to receive reports of emergencies. Second, equipment and personnel must exist to receive 911 calls. Generally, such equipment and personnel are located in PSAPs, which are established and maintained by State and local authorities.

17. We recognize that communities throughout the United States are at differing points relative to implementation of 911. Many State and local authorities already have implemented access via 911 to PSAPs that can dispatch the appropriate emergency personnel for the particular emergency situation. On the opposite end of the spectrum, some communities may not use 911 or any other abbreviated dialing code, may not have PSAPs in place, and may provide access to police, fire, ambulance, and other emergency services by dialing a seven or ten-digit telephone number. Between these two ends of the spectrum, we recognize that a variety of conditions exist, including communities that use PSAPs but provide access to them via seven or ten-digit telephone numbers or abbreviated dialing code other than 911. In addition, there are communities that provide access to some emergency services via an abbreviated dialing code but have not established PSAPs. Implementation of the 911 abbreviated dialing code should recognize the varying conditions that exist in communities throughout this country.

18. **Discussion**. The transition to the nationwide use of 911 as the emergency service number will involve the coordinated efforts of the States and localities, PSAPs, telecommunications service providers, and other entities. The 911 Act provides for reasonable transition periods for those areas where 911 is not currently the emergency number. A transition period will provide wireline and wireless carriers the necessary time to implement the technical modifications to their networks. In addition, such a period will permit translation of 911 at the appropriate network points into the emergency number in use by the PSAPs in a particular jurisdiction. The legislative history accompanying the 911 Act also indicates an intent that these transition periods should be determined by service area-specific circumstances and capabilities.[27]

19. We seek comment on the technical and operational issues that should be taken into account in adopting transition periods that will allow carriers sufficient time to transition to the use of 911 as an emergency telephone number. For example, carriers' transition to the 911 emergency number may require, among other things, development and operation of database systems, certain network modifications to current emergency dialing patterns, and hardware or software purchases and upgrades. We seek comment on all of the steps that carriers must undertake to transition to the use of 911 and

[26] 911 Act at Section 3(a), 47 U.S.C. § 251(e)(3).

[27] *See* House Report at 13-14.

suggested timeframes that will allow carriers to complete those steps as expeditiously as possible.[28] In addition, we seek comment on the particular technical and operational issues presented by a requirement that the carriers offer 911 service to their subscribers, regardless of whether a PSAP is in place to receive 911 calls.

20. We also seek comment on whether certain telecommunications service providers will need more time to transition to the use of 911 than other service providers. For example, we seek comment on whether wireless carriers would require a longer transition period and if so, the unique circumstances applicable to wireless carriers that justify a longer transition period.[29] We seek specific input on what factors will affect the transition periods required by different categories of carriers and what timeframes would be necessary to accommodate such factors. Further, we seek comment on any other factors that may affect the timeframe in which a carrier will be able to transition to the use of 911 in areas currently using another emergency telephone number. We also seek comment on measures we may take to encourage cooperative efforts by all affected parties during the transition to universal 911 usage.[30]

21. Furthermore, where a locality has no PSAP or centralized emergency service program, we seek comment on the scope of carriers' obligation to direct 911 calls to a local fire, police, or other emergency service provider in such areas. We recognize that in this type of situation various logistical difficulties are presented and observe that PSAPs were established precisely to deal with the problem of ensuring the proper routing of 911 calls. Because of the logistical difficulties we believe carriers would face, we tentatively conclude that we should not impose any particular obligation on carriers to transmit 911 calls to a particular local agency or similar destination in areas where State or local authorities have not established a PSAP or other answering point to which such calls can be routed. We seek comment on this tentative conclusion and any matter related to it that is relevant in establishing appropriate transition periods.

22. To enable us to evaluate the progress made during the transition periods, we tentatively conclude that it would be useful and appropriate to monitor the progress of carriers in transitioning to the universal usage of 911 as the emergency telephone number. To assist us in our monitoring effort, we seek comment on whether we should require carriers to file transition reports and, if so, the nature, extent, and timing of the information to be provided.

IV. NOTICE OF PROPOSED RULEMAKING IN WT DOCKET NO. 00-110

A. Commission Efforts to Encourage and Support Deployment of Comprehensive End-to-End Emergency Communications Infrastructure and Programs

23. **Background.** The 911 Act seeks to achieve a coordinated, nationwide emergency communications network that integrates the latest technologies and ensures improved and prompt

[28] *See* House Report at 13.

[29] Because wireless carriers covered by the 911 Act are subject to our E911 rules that require their transmission of all 911 calls, they generally would translate 911 calls into any non-911 number a locality may be using for emergency services and it is not clear that any longer implementation period is necessary. Also, it is worth noting that Congress expressed concern about making 911 available to wireless customers.

[30] House Report at 14.

delivery of emergency services.[31] To facilitate this goal, section 3(b) of the 911 Act directs the Commission to "encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 911 service."[32] The Commission is directed to "encourage each State to develop and implement coordinated statewide deployment plans, through an entity designated by the governor, and to include representatives" of various relevant organizations and other stakeholders in the development and implementation of such plans.[33] Although the 911 Act requires the Commission to "consult and cooperate with State and local officials" in our role of encouraging and supporting such deployment, the Commission is not authorized to "impose obligations or costs on any person."[34]

24. **Discussion.** As a general matter, we seek comment on what measures we should undertake to encourage and support efforts by the States to deploy comprehensive emergency communications networks based on each State's coordinated plan. At the outset of this discussion, we find that section 3(b) reflects a careful balance between the need for federal and state leadership and the responsibilities of local jurisdictions and others to provide 911 emergency services.[35] Congress recognized that most of the key decisions in this area are not made by the federal government, but by the private sector and State and local governments, and that implementation of 911 systems is carried out at the local level. We find, therefore, that the framework for implementation of the state plans and statewide emergency systems envisioned by the 911 Act should rely on the cooperation and coordination of all the interested parties.[36] We tentatively conclude that, under section 3(b), we may adopt provisions that facilitate the States' efforts through guidelines, fact sheets, meetings, or other information-sharing measures that do not impose obligations or costs or otherwise interfere with the careful balance of responsibilities. We seek comment on our tentative conclusion.

25. Initially, we could satisfy our obligation to consult and cooperate with the listed parties in the development of state plans by convening a forum or other meetings to develop and disseminate information on 911 issues. We believe that a record developed in such meetings might be useful in providing consultation and cooperation among the interested parties.[37] As an initial matter, these meetings could be useful to discuss our current 911 rules, including our cost recovery rules adopted last

[31] 911 Act at Section 2(a)(1)-(6).

[32] 911 Act at Section 3(b). We address our obligations under section 3(b) in a new wireless rulemaking docket separate from CC Docket No. 92-105, to focus on the wireless issues emphasized in the 911 Act statutory mandate and to keep numbering issues distinctly within CC Docket No. 92-105.

[33] *Id.*

[34] *Id.*

[35] House Report at 8.

[36] House Report at 7-8.

[37] We have previously found such an approach to be beneficial in implementing specific N11 programs. *See* Revised Public Notice On FCC Convenes A Public Forum on 711 Access To Telecommunications Relay Services, CC Docket No. 92-105, DA 991170 (June 16, 1999); *see also* Public Forum on 711 Access To Telecommunications Relay Services, CC Docket No. 92-105 (Sept. 8, 1999) at http: www.fcc.gov/711 (transcript).

year.[38] Further, such an approach also could entail coordination among designated entities from different States that share problems particular to their region and perhaps from specific rural or urban areas that overlap state boundaries. We could invite, for example, attendance by representatives of the groups listed in the 911 Act, as well as other interested organizations or representatives. We seek comment on these tentative suggestions and any other approaches, such as a "Round Table" meeting on technical matters, which would provide effective means for consulting about or monitoring state plans.[39] To enable the Commission to monitor technical developments that may assist the States in their efforts, we also seek comment on whether carriers are the best source of information on the status of deployment of statewide 911 services, and how such information might be gathered and shared.

26. In addition, we could perform the function of a "clearinghouse," both with regard to reporting information gathered at the meetings or elsewhere and indicating problems encountered in implementation of 911 infrastructures and programs, including the progress of the States in developing end-to-end systems and establishing their state plans, as well as the entities designated to develop statewide systems. In such a capacity, we might gather information on the status of implementation of 911 across the country, and thus serve as a resource for entities designated by the governors, perhaps in conjunction with representative associations. Information about emerging technologies, including Automatic Crash Notification and other advance safety systems, could in this way be shared among the States and incorporated in the statewide plans. In addition, it may be useful to use our current E911 web site to make available 911 technical and implementation information, including information about other sources that may assist States and localities in developing their plans.[40] We seek comment on these proposals, including what information we should put on the Commission's E911 web site that would assist interested parties.

27. We also seek comment on what other forms of information the Commission could assist in providing that would be useful. For example, a "model" state plan could be developed. We seek comment on the process by which a "model" state plan could be developed in a manner that does not impose costs or obligations on any person. Finally, as a general matter, we request comment on what additional steps the States view as necessary to their development of state plans and on what kinds of support the States need from the Commission in order to achieve the statutory objectives of section 3(b).

V. PROCEDURAL ISSUES

A. Final Regulatory Flexibility Act Statement

28. The action taken in the Fourth Report and Order portion of this decision is not the result of a notice and comment proceeding, but is mandated by Congress in the Wireless Communications and Public Safety Act of 1999.[41] The Commission is therefore not bound by the requirements of the Regulatory Flexibility Act and has not prepared a Final Regulatory Flexibility Act Statement.

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[38] *E911 Second Reconsideration Order*, 14 FCC Rcd at 20866-80 (paras. 38-74).

[39] *See, e.g.*, Public Notice, "Commission Announces Details of Technical Roundtable on Implementation of Automatic Location Identification for Enhanced 911 Technologies," CC Docket No. 94-102, DA 99-1243 (June 23, 1999) (addressing technical matters regarding 911 Phase II Automatic Location Identification (ALI)).

[40] http:// www.fcc.gov//e911.

[41] Pub. L. No. 106-81, enacted Oct. 26, 1999.

year.[38] Further, such an approach also could entail coordination among designated entities from different States that share problems particular to their region and perhaps from specific rural or urban areas that overlap state boundaries. We could invite, for example, attendance by representatives of the groups listed in the 911 Act, as well as other interested organizations or representatives. We seek comment on these tentative suggestions and any other approaches, such as a "Round Table" meeting on technical matters, which would provide effective means for consulting about or monitoring state plans.[39] To enable the Commission to monitor technical developments that may assist the States in their efforts, we also seek comment on whether carriers are the best source of information on the status of deployment of statewide 911 services, and how such information might be gathered and shared.

26. In addition, we could perform the function of a "clearinghouse," both with regard to reporting information gathered at the meetings or elsewhere and indicating problems encountered in implementation of 911 infrastructures and programs, including the progress of the States in developing end-to-end systems and establishing their state plans, as well as the entities designated to develop statewide systems. In such a capacity, we might gather information on the status of implementation of 911 across the country, and thus serve as a resource for entities designated by the governors, perhaps in conjunction with representative associations. Information about emerging technologies, including Automatic Crash Notification and other advance safety systems, could in this way be shared among the States and incorporated in the statewide plans. In addition, it may be useful to use our current E911 web site to make available 911 technical and implementation information, including information about other sources that may assist States and localities in developing their plans.[40] We seek comment on these proposals, including what information we should put on the Commission's E911 web site that would assist interested parties.

27. We also seek comment on what other forms of information the Commission could assist in providing that would be useful. For example, a "model" state plan could be developed. We seek comment on the process by which a "model" state plan could be developed in a manner that does not impose costs or obligations on any person. Finally, as a general matter, we request comment on what additional steps the States view as necessary to their development of state plans and on what kinds of support the States need from the Commission in order to achieve the statutory objectives of section 3(b).

V. PROCEDURAL ISSUES

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[38] *E911 Second Reconsideration Order*, 14 FCC Rcd at 20866-80 (paras. 38-74).

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[40] http:// www.fcc.gov//e911.

[41] Pub. L. No. 106-81, enacted Oct. 26, 1999.

B. Initial Regulatory Flexibility Analysis

29. **Third Notice of Proposed Rulemaking in CC Docket No. 92-105.** As required by the Regulatory Flexibility Act (RFA), Appendix A sets forth the Commission's Initial Regulatory Flexibility Analysis (IRFA) regarding the policies and rules proposed in the Third Notice of Proposed Rulemaking in CC Docket No. 92-105. We request written public comments on the analysis. Comments must be separately identified with a heading to indicate they are in response to this IRFA. The comments must be filed in accordance with the deadlines for the filing of comments in response to the Third Notice of Proposed Rulemaking. The Commission will send a copy of the Third Notice of Proposed , including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

30. **Notice of Proposed Rulemaking in WT Docket No. 00-110.** As required by the RFA, Appendix B sets forth the Commission's IRFA regarding the policies and rules proposed in the Notice of Proposed Rulemaking in WT Docket No. 00-110. We request written public comments on the analysis. Comments must be separately identified with a heading to indicate they are in response to this IRFA. The comments must be filed in accordance with the deadlines for the filing of comments in response to the Notice of Proposed Rulemaking. The Commission will send a copy of the Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Analysis

31. The Fourth Report and Order does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and the Commission has not performed one.

32. The actions proposed in the Third Notice of Proposed Rulemaking in CC Docket No.92-105 and the Notice of Proposed Rulemaking in WT Docket No. 00-110 contain proposed or modified information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained separately in the Third Notice of Proposed Rulemaking and the Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995. Public and agency comments are due 60 days after publication of these documents, or summaries thereof, in the Federal Register. OMB comments are due 120 days from the date of publication of these Notices in the Federal Register. Comments must be separately identified with a heading to indicate they are in response to the particular Notice.

33. Comments should address: (1) whether the proposed information collections are 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; and (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.

D. *Ex Parte* Presentations

34. The Third Notice of Proposed Rulemaking in CC Docket No. 92-105 and the Notice of Proposed Rulemaking in WT Docket No. 00-110 are permit-but-disclose notice and comment rulemaking proceedings. Members of the public, therefore, are advised that *ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed under the

Commission's Rules.[42]

E. Comment Filing Dates and Procedures

35. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules,[43] interested parties may file comments in response to the Third Notice of Proposed Rulemaking in CC Docket No. 92-105 and the Notice of Proposed Rulemaking in WT Docket No. 00-110 on or before **October 16, 2000** and reply comments on or before **November 15, 2000**. Comments and reply comments should be filed in combined CC Docket No. 92-105 and WT Docket No. 00-110 and should include a separate heading to identify the comments for each Docket Number. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street, S.W., Washington, D.C. 20554, with copies to David Siehl, Policy Division, Wireless Telecommunications Bureau, and to Cheryl Callahan, Network Services Division, Common Carrier Bureau, at 445 Twelfth Street, S.W., Washington, D.C. 20554.

36. Comments also may be filed using the Commission's Electronic Comment Filing System (ECFS).[44] Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-mail/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking numbers. Parties also may submit an electronic comment by Internet E-Mail. To obtain filing instructions for E-Mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your E-Mail address>." A sample form and directions will be sent in reply.

37. Comments and reply comments will be available for public inspection during regular business hours at the FCC Reference Center, Room CY-A257, at the Federal Communications Commission, 445 Twelfth Street, S.W., Washington, D.C. 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, N.W., Washington, D.C. 20037, (202)857-3800.

F. Further Information

38. For further information concerning this rulemaking proceeding, contact David Siehl of the Policy Division, Wireless Telecommunications Bureau at (202) 418-1310 or Cheryl Callahan of the Network Services Division, Common Carrier Bureau at (202) 418-2320.

VI. ORDERING CLAUSES

39. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i), 4(j), 7, 10, 201, 202, 208,

[42] 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

[43] 47 C.F.R. §§ 1.415, 1.419.

[44] Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

214, 251(e)(3), 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 160, 201, 202, 208, 214, 251(e)(3), 301, 303, 308, 309(j), and 310, the FOURTH REPORT AND ORDER AND THIRD NOTICE OF PROPOSED RULEMAKING in CC Docket No. 92-105 is hereby ADOPTED.

40. IT IS FURTHER ORDERED that, pursuant to Sections 1, 4(i), 4(j), 7, 10, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310; and U.S.C.A. § 615, the NOTICE OF PROPOSED RULEMAKING in WT Docket No. 00-110 is ADOPTED.

41. IT IS FURTHER ORDERED that, pursuant to Section 251(e)(3) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(e)(3), 911 is ASSIGNED as a national abbreviated dialing code to be used exclusively for access to emergency police and other government services, upon the release date of this FOURTH REPORT AND ORDER.

42. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this FOURTH REPORT AND ORDER AND THIRD NOTICE OF PROPOSED RULEMAKING IN CC Docket No. 92-105 AND NOTICE OF PROPOSED RULEMAKING IN WT Docket No. 00-110, including the associated Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary

Appendix A

Initial Regulatory Flexibility Analysis
Third Notice of Proposed Rulemaking – CC Docket No. 92-105

As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Third Notice of Proposed Rulemaking (Third Notice), CC Docket No. 92-105. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Third Notice as provided above in paragraph 35. The Commission will send a copy of the Third Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the Third Notice and IRFA (or summaries thereof) will be published in the Federal Register. *See id.*

A. Need for, and Objectives of, the Proposed Rules

The Third Notice is an important step toward implementation of the Wireless Communications and Public Safety Act of 1999 (911 Act). Section 3(a) of the 911 Act amends the exclusive jurisdiction of the Commission in Section 251(e) of the Communications Act over numbering administration and those portions of the North American numbering plan that pertain to the United States by directing the Commission to designate 911 as the universal emergency telephone number for wireline and wireless telephone service.[2] The 911 Act amendment to Section 251(e) further directs the Commission to provide appropriate transition periods for areas in which 911 is not in use as an emergency telephone number on the date of enactment of the 911 Act.[3] A transition period will provide wireline and wireless carriers the necessary time to implement the technical modifications to their networks and permit translation of 911 at the appropriate network points into the emergency number in use by Public Safety Answering Points (PSAPs) in a particular jurisdiction. The Third Notice seeks comment on the technical and operational issues that should be taken into account in adopting transition periods that will allow carriers sufficient time to transition to the use of 911 as an emergency telephone number. Thus, we intend for the Third Notice to stimulate participation by interested parties in our effort to provide for reasonable transition periods.

B. Legal Basis for Proposed Rules

The proposed action is authorized under Sections 1, 4(i), 4(j), 7, 10, 201, 202, 208, 214, 251(e)(3), 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 160, 201, 202, 208, 214, 251(e)(3), 301, 303, 308, 309(j), 310.

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[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] Pub. L. No. 106-81, enacted Oct. 26, 1999; 911 Act at Section 3(a); 47 U.S.C. § 251(e)(3).

[3] 911 Act at Section 3(a); 47 U.S.C. § 251(e)(3)

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[4] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[5] In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities.[6] Under the Small Business Act, 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).[7] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[8] Nationwide, as of 1992, there were approximately 275,801 small organizations.[9]

The definition of "small governmental entity" is one with populations of fewer than 50,000.[10] There are 85,006 governmental entities in the nation.[11] This number includes such entities as States, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000.[12] The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

Common Carrier Services and Related Entities. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report.[13] According to data in the most recent report, there are 4,144 interstate

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[4] 5 U.S.C. § 603(b)(3).

[5] 5 U.S.C. § 601(6)

[6] *Id.* § 601(3).

[7] *Id.* § 632.

[8] *Id.* § 601(4).

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

[10] 5 U.S.C. § 601(5).

[11] 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

[12] *Id.*

[13] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

carriers.[14] These carriers 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 toll service, providers of telephone exchange service, and resellers.

The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.[15] Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." [16] 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.[17] We have therefore included small incumbent LEC's is this IRFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other non-RFA contexts.

Total Number of Telephone Companies Affected. The U.S. Bureau of the Census (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.[18] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."[19] For example, a reseller that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the actions proposed in this Third Notice.

Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year

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[14] *Id.*

[15] 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

[16] 5 U.S.C. § 601(3).

[17] Letter *from* Jere W. Glover, Chief Counsel for Advocacy, SBA *to* William E. Kennard,

[18] U.S. BUREAU OF THE CENSUS, U.S. DEPT. OF COMMERCE, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS, AND UTILITIES: ESTABLISHMENT AND FIRM SIZE, at Firm Size 1-123 (1995) (*1992 Census*).

[19] *See generally* 15 U.S.C. § 632(a)(1).

at the end of 1992.[20] According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[21] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus 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 the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by the actions proposed in this Third Notice.

Local Exchange Carriers, Competitive Access Providers, Competitive Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange service, competitive access providers, or competitive local exchange carriers. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[22] According to the most recent telecommunications industry revenue data, 1,348 carriers reported that they were engaged in the provision of incumbent local exchange services, and 212 carriers reported that they were providing competitive access or competitive local exchange services.[23] We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of providers and carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,560 providers of local exchange service, or of competitive access or competitive local exchange services are small entities or small entities that may be affected by the actions proposed in this Third Notice.

Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[24] According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services.[25] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 171 small entity IXCs that may be affected by the actions proposed in this Third Notice.

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[20] *1992 Census*, at Firm Size 1-123.

[21] 13 C.F.R. § 121.201, SIC code 4813.

[22] *Id.*

[23] *Carrier Locator Interstate Service Providers,* Figure 1 (January 2000).

[24] 13 CFR 121.201, SIC code 4813.

[25] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

A-Block LMDS Providers. The total number of A-block LMDS licenses is limited to 493, one for each Basic Trading Area.[26] The Commission has held auctions for all 493 licenses, in which it defined "very small business" (average gross revenues for the three preceding years of not more than $15 million), "small business" (more than $15 million but not more than $40 million), and "entrepreneur" (more than $40 but not more than $75 million) bidders.[27] There have been 99 winning bidders that qualified in these categories in these auctions all of which may be affected by the actions proposed in this Third Notice.

220 MHz Radio Service -- Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[28] According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[29] Therefore, if this general ratio continues in 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

220 MHz Radio Service -- Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[30] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years.[31] The SBA has approved these definitions.[32] The

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[26] 47 CFR 101.1005, 101.1007.

[27] 47 CFR 101.1107(a)-(c), 101.1112.

[28] 13 C.F.R. § 121.201, SIC code 4812.

[29] U.S. BUREAU OF THE CENSUS, U.S. DEPT. OF COMMERCE, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS, AND UTILITIES, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

[30] Amendment of Part 90 of the Commission's Rules To Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552; Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252; Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, Third Report and Order; Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70 (paras. 291-95) (1997) (*220 MHz Third Report and Order*).

[31] *Id.* at 11068-69 (para. 291).

Commission has held two auctions for Phase II licenses for the 220 MHz band. Fifty-three (53) winning bidders qualified as small or very small entities.

Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[33] At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Carrier Locator Interstate Service Providers* data, 303 carriers reported that they were engaged in the provision of paging and messaging.[34] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 303 small paging carriers that may be affected by the rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies,[35] and the most recent *Carrier Locator Interstate Service Providers* data shows that 142 carriers reported that they were engaged in the provision of SMR dispatching and "other mobile" services.[36] Consequently, we estimate that there are fewer than 142 small mobile service carriers that may be affected by the proposed rules.

Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity"for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[37] For Block F, an additional

(Continued from previous page)

[32] *See* Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

[33] 13 C.F.R. § 121.201, SIC code 4812.

[34] *Carrier Locator Interstate Service Providers*, Figure 1 (January 2000).

[35] 13 C.F.R. § 121.201, SIC code 4812.

[36] *Carrier Locator Interstate Service Providers*, Figure 1 (January 2000).

[37] *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; Amendment of the Commission's Cellular/PCS Cross-Ownership Rule, GN Docket 90-314, Report and Order, 11 FCC Rcd 7824, 7850-52 (paras. 57-60) (1996); *see also* Section 24.720(b) of the Commission's Rules, 47 C.F.R. §24.720(b).

classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[38] These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.[39] 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% of the 1,479 licenses for Blocks D, E, and F.[40] Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[41] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems.[42] We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[43] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[44] Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[45] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we

[38] *See Id.* at 7852 (para. 60).

[39] *See, e.g.*, Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (paras. 114-20) (1994).

[40] FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (released Jan. 14, 1997).

[41] The service is defined in Section 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

[42] BETRS is defined in Sections 22.757 and 22.759 of the Commission's Rules, 47 C.F.R. §§ 22.757 and 22.759.

[43] 13 C.F.R. § 121.201, SIC code 4812.

[44] The service is defined in Section 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

[45] 13 C.F.R. § 121.201, SIC code 4812.

estimate that almost all of them qualify as small under the SBA definition.

Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years.[46] In the context of both 800 MHz and 900 MHz SMR, this regulation defining "small entity" has been approved by the SBA; and the Commission has also received approval concerning 800 MHz SMR.

The proposed rules in the Third Notice apply to SMR providers in the 800 MHz and 900 MHz bands that hold CMRS licenses. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service as CMRS operators, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing SMR authorizations are held by small entities, as that term is defined by the SBA. For geographic area licensees in the 900 MHz SMR band there are 60 who qualified as small entities.

Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the States bordering the Gulf of Mexico.[47] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

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

The Third Notice invites comment on a number of issues pertaining to the implementation of 911 as the universal emergency number in the United States, and the transition to 911 by carriers that provide emergency communication services but are not currently using 911. A certain amount of regulation or compliance requirements may be inherent in ensuring the smooth, efficient transition to 911. For example, telecommunications carriers' equipment must recognize the dialing code 911, and direct such calls along with certain other signaling and location information to the pre-designated location where personnel are available to receive reports of emergencies. A carriers' transition to the 911 emergency number may require development and operation of database systems, certain network modifications to current emergency dialing patterns, and upgrades in software and hardware. The Third Notice seeks comment on all of the steps that carriers must undertake for that transition and suggested timeframes to complete those steps expeditiously. Further, the Commission conceivably could adopt a mechanism for monitoring the progress of this transition. One possibility is a requirement that carriers file transition reports with the Commission.

The Commission is hopeful that the Third Notice will attract clearly developed comments that will suggest suitable means for achieving ubiquitous, efficient transition to 911 with as little regulatory burden on all parties as possible. In this effort, the Commission, in cooperation with all interested parties, seeks a reliable, efficient way to improve critical 911 service in light of the varying current conditions in communities throughout the country. The expeditious transition to universal 911 usage is an important step in reaching this goal.

[46] 47 C.F.R. §90.814(b)(1).

[47] This service is governed by subpart I of part 22 of the Commission's Rules. *See* 47 C.F.R. §§ 22.1001-22.1037.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification , consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[48]

The purpose of the 911 Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for emergency communications, including wireless communications.[49] Congress found that the establishment of a network that provided for the rapid, efficient deployment of emergency services would result in many public benefits,[50] including faster delivery of emergency care with reduced fatalities and severity of injuries, and improved service in rural areas. Because of the critical life and death nature of the issues at stake in implementing 911 as a national emergency number, it is important that all parties involved, large or small, participate in the creation of this emergency infrastructure. Therefore, it is imperative that all entities participate in this rulemaking proceeding in order that the opinions about and the effect of the proposed rules on all entities be reflected in the comments filed herein. Thus, the Commission is limited in affording exceptions or providing benefits to small entities. Wherever possible, we have afforded maximum flexibility and minimum burden on all affected parties. For example, in paragraphs 17-21, *supra*, the Commission makes it clear that it is aware that localities across the nation are currently at different stages of transitioning to 911, and that service-area specific circumstances and capabilities will serve to determine what the transition periods should be. In recognition of such diverse conditions, the Third Notice further seeks specific input on what factors will affect the transition periods required by different categories of carriers and what timeframes would be necessary to accommodate such factors. In addition, where a locality has no PSAP or centralized emergency service program, because of the various logistical difficulties present in such a situation, we tentatively conclude that we should not

[48] 5 U.S.C. § 603(c).

[49] 911 Act at Section 2(b), 47 U.S.C.A. § 615 NOTE.

[50] 911 Act at Section 2(a), 47 U.S.C.A. § 615 NOTE.

impose any particular obligation on carriers to transmit 911 calls in such localities or areas. The Third Notice seeks comment on this tentative conclusion.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Appendix B

Initial Regulatory Flexibility Analysis
Notice of Proposed Rulemaking – WT Docket No. 00-110

As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM), WT Docket No. 00-110. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM as provided above in paragraph 35. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register. *See id.*

A. Need for, and Objectives of, the Proposed Rules

The NPRM initiates a proceeding to address issues that are involved in implementing the Wireless Communications and Public Safety Act of 1999 (911 Act).[2] The 911 Act seeks to achieve a coordinated, nationwide emergency communications network that integrates the latest technologies and ensures improved and prompt delivery of emergency services.[3] Section 3(b) of the 911 Act directs the Commission to encourage and support efforts by the States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans.[4] The NPRM seeks comment on what measures the Commission should adopt to encourage and support those state efforts. The NPRM also seeks comment on how the Commission should satisfy its obligation to consult and cooperate with various stakeholders in the development of state plans. The Commission recognizes that it must balance its mandate of encouraging and supporting parties in their efforts with its Congressional directive not to impose obligations or costs on any person. The NPRM is intended to ensure that the Congressional goals for an expanded and improved nationwide emergency communications system are implemented expeditiously, effectively, and efficiently, thus saving and improving lives.

B. Legal Basis for Proposed Rules

The proposed action is authorized under Sections 1, 4(i), 7, 10, 201, 202, 208, 214, 251(e)(3), 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, 47 U.S.C. §§ 151, 154(i), 157, 160, 201, 202, 208, 214, 251(e)(3), 301, 303, 308, 309(j), 310; and 47 U.S.C.A. § 615.

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[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] Pub.L.No. 106-81, enacted Oct. 26, 1999, 47 U.S.C.A. § 615.

[3] 911 Act at Section 2(a)(1)-(6).

[4] 47 U.S.C.A. § 615.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[5] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[6] In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities.[7] Under the Small Business Act, 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).[8] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[9] Nationwide, as of 1992, there were approximately 275,801 small organizations.[10]

The definition of "small governmental entity" is one with populations of fewer than 50,000.[11] There are 85,006 governmental entities in the nation.[12] This number includes such entities as States, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000.[13] The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

Common Carrier Services and Related Entities. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report.[14] According to data in the most recent report, there are 4,144 interstate

[5] 5 U.S.C. § 603(b)(3).

[6] 5 U.S.C. § 601(6)

[7] *Id.* § 601(3).

[8] *Id.* § 632.

[9] *Id.* § 601(4).

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

[11] 5 U.S.C. § 601(5).

[12] 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

[13] *Id.*

[14] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

carriers.[15] These carriers 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 toll service, providers of telephone exchange service, and resellers.

The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.[16] Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." [17] 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.[18] We have therefore included small incumbent LEC's is this IRFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other non-RFA contexts.

Total Number of Telephone Companies Affected. The U.S. Bureau of the Census (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.[19] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."[20] For example, a reseller that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the actions proposed in this Third Notice.

Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year

[15] *Id.*

[16] 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. *See also* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

[17] 5 U.S.C. § 601(3).

[18] Letter *from* Jere W. Glover, Chief Counsel for Advocacy, SBA *to* William E. Kennard,

[19] U.S. BUREAU OF THE CENSUS, U.S. DEPT. OF COMMERCE, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS, AND UTILITIES: ESTABLISHMENT AND FIRM SIZE, at Firm Size 1-123 (1995) (*1992 Census*).

[20] *See generally* 15 U.S.C. § 632(a)(1).

at the end of 1992.[21] According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[22] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus 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 the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by the actions proposed in this Third Notice.

Local Exchange Carriers, Competitive Access Providers, Competitive Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange service, competitive access providers, or competitive local exchange carriers. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[23] According to the most recent telecommunications industry revenue data, 1,348 carriers reported that they were engaged in the provision of incumbent local exchange services, and 212 carriers reported that they were providing competitive access or competitive local exchange services.[24] We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of providers and carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,560 providers of local exchange service, or of competitive access or competitive local exchange services are small entities or small entities that may be affected by the actions proposed in this Third Notice.

Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[25] According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services.[26] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 171 small entity IXCs that may be affected by the actions proposed in this Third Notice.

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[21] *1992 Census*, at Firm Size 1-123.

[22] 13 C.F.R. § 121.201, SIC code 4813.

[23] *Id.*

[24] *Carrier Locator Interstate Service Providers*, Figure 1 (January 2000).

[25] 13 CFR 121.201, SIC code 4813.

[26] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

A-Block LMDS Providers. The total number of A-block LMDS licenses is limited to 493, one for each Basic Trading Area.[27] The Commission has held auctions for all 493 licenses, in which it defined "very small business" (average gross revenues for the three preceding years of not more than $15 million), "small business" (more than $15 million but not more than $40 million), and "entrepreneur" (more than $40 but not more than $75 million) bidders.[28] There have been 99 winning bidders that qualified in these categories in these auctions all of which may be affected by the actions proposed in this Third Notice.

220 MHz Radio Service -- Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[29] According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[30] Therefore, if this general ratio continues in 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

220 MHz Radio Service -- Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[31] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years.[32] The SBA has approved these definitions.[33] The

[27] 47 CFR 101.1005, 101.1007.

[28] 47 CFR 101.1107(a)-(c), 101.1112.

[29] 13 C.F.R. § 121.201, SIC code 4812.

[30] U.S. BUREAU OF THE CENSUS, U.S. DEPT. OF COMMERCE, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS, AND UTILITIES, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

[31] Amendment of Part 90 of the Commission's Rules To Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552; Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252; Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, Third Report and Order; Fifth Notice of Proposed Rulemaking, 12 FCC Rcd 10943, 11068-70 (paras. 291-95) (1997) (*220 MHz Third Report and Order*).

[32] *Id.* at 11068-69 (para. 291).

Commission has held two auctions for Phase II licenses for the 220 MHz band. Fifty-three (53) winning bidders qualified as small or very small entities.

Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[34] At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Carrier Locator Interstate Service Providers* data, 303 carriers reported that they were engaged in the provision of paging and messaging.[35] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 303 small paging carriers that may be affected by the rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies,[36] and the most recent *Carrier Locator Interstate Service Providers* data shows that 142 carriers reported that they were engaged in the provision of SMR dispatching and "other mobile" services.[37] Consequently, we estimate that there are fewer than 142 small mobile service carriers that may be affected by the proposed rules.

Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity"for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[38] For Block F, an additional

(Continued from previous page)

[33] *See* Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

[34] 13 C.F.R. § 121.201, SIC code 4812.

[35] *Carrier Locator Interstate Service Providers*, Figure 1 (January 2000).

[36] 13 C.F.R. § 121.201, SIC code 4812.

[37] *Carrier Locator Interstate Service Providers*, Figure 1 (January 2000).

[38] *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; Amendment of the Commission's Cellular/PCS Cross-Ownership Rule, GN Docket 90-314, Report and Order, 11 FCC Rcd 7824, 7850-52 (paras. 57-60) (1996); *see also* Section 24.720(b) of the Commission's Rules, 47 C.F.R. §24.720(b).

classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[39] These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.[40] 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% of the 1,479 licenses for Blocks D, E, and F.[41] Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[42] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems.[43] We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[44] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[45] Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[46] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we

[39] *See Id.* at 7852 (para. 60).

[40] *See, e.g.*, Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (paras. 114-20) (1994).

[41] FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (released Jan. 14, 1997).

[42] The service is defined in Section 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

[43] BETRS is defined in Sections 22.757 and 22.759 of the Commission's Rules, 47 C.F.R. §§ 22.757 and 22.759.

[44] 13 C.F.R. § 121.201, SIC code 4812.

[45] The service is defined in Section 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

[46] 13 C.F.R. § 121.201, SIC code 4812.

estimate that almost all of them qualify as small under the SBA definition.

Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than $15 million in each of the three previous calendar years.[47] In the context of both 800 MHz and 900 MHz SMR, this regulation defining "small entity" has been approved by the SBA; and the Commission has also received approval concerning 800 MHz SMR.

The proposed rules in the Third Notice apply to SMR providers in the 800 MHz and 900 MHz bands that hold CMRS licenses. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service as CMRS operators, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing SMR authorizations are held by small entities, as that term is defined by the SBA. For geographic area licensees in the 900 MHz SMR band there are 60 who qualified as small entities.

Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the States bordering the Gulf of Mexico.[48] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

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

The NPRM seeks comment on what measures may be necessary to implement the provisions of section 3(b) of the 911 Act, and on the Commission's tentative conclusion that it may adopt measures that facilitate the efforts of the States in their deployment of comprehensive emergency communications networks. Actual reporting, recordkeeping, and compliance requirements will depend on what the Commission ultimately adopts. Based on the proposals contained in the NPRM, the Commission finds several possible compliance requirements. First, the 911 Act mandates that each State "develop and implement coordinated statewide deployment plans...."[49] It may thus be necessary for various involved parties, including the carriers and the PSAPs, to communicate regularly both orally and in person. The Commission might assist in these cooperative efforts by scheduling round table discussions or acting as a clearinghouse for information. The parties may be asked to participate by providing, for example, available information on the status of the implementation of 911 infrastructures and programs, and by contributing to a process in which the Commission could assist in providing information, possibly for the development of a "model" state plan. Also, to ensure compliance with the statutory objectives of section 3(b), the Commission could conceivably request that these plans be submitted to the Commission for review. These issues are discussed in paragraphs 24-27 of the NPRM.

[47] 47 C.F.R. §90.814(b)(1).

[48] This service is governed by subpart I of part 22 of the Commission's Rules. *See* 47 C.F.R. §§ 22.1001-22.1037.

[49] S. Rep. No. 106-138, at 1-2.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification , consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[50]

Because of the critical life and death nature of the issues at stake in implementing 911 as a national emergency number, it is important that all parties involved, large or small, participate equally in the 911 program. The NPRM takes note, however, of Congressional recognition that most of the key decisions in improving 911 service are not made by the Federal government but by the private sector and State and local governments, and implementation of 911 systems is carried out at the local level. Therefore, instead of proposing that the Commission play a strong regulatory role in 911 implementation, the NPRM seeks comment on different measures that could possibly be taken as part of a framework for deployment of comprehensive emergency systems based on statewide plans and that are based on the cooperation and coordination of all the interested parties, with the encouragement and support of the Commission.

Rather than proposing that the various parties coordinate among themselves and report back to the Commission with the result of their efforts, the NPRM, as indicated in paragraph 25, seeks comment on whether the Commission could satisfy its obligation to consult and cooperate by convening a forum or other meetings to develop and disseminate information on 911 issues. The Commission believes that this could help the coordination process by bringing together the designated entities from different States that share problems particular to their region and perhaps from specific rural or urban areas that overlap state boundaries. Also, paragraph 26 sets forth, the Commission proposes that it could perform a "clearinghouse" function, providing a common point for locating necessary information and indicating the problems encountered and the progress made. Finally, as a general matter, the NPRM solicits comment on steps the States view as necessary to their development of state plans and what kinds of support they need from the Commission in order to achieve the statutory objectives of section 3(b).

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

[50] 5 U.S.C. § 603(c).