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
	)	
	)	
	)	

FIFTH REPORT AND ORDER
CC Docket No. 92-105
FIRST REPORT AND ORDER
WT Docket No. 00-110
MEMORANDUM OPINION AND ORDER ON RECONSIDERATION
CC Docket No. 92-105 and WT Docket No. 00-110

Adopted: November 29, 2001 **Released:** December 11, 2001

By the Commission: Commissioner Abernathy issuing a statement.

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I. INTRODUCTION AND EXECUTIVE SUMMARY

1. Today, we take further steps to implement the provisions in the Wireless Communications and Public Safety Act of 1999 (911 Act), enacted by Congress to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services.[1] Specifically, we:

- Adopt a maximum period, generally ending nine months after the release of this Order, for carriers to transition to routing 911 calls to a Public Safety Answering Point (PSAP) in areas where one has been designated or, in areas where a PSAP has not yet been designated, either to an existing statewide established default point, if one exists, or, if not, to an appropriate local emergency authority;

- Address steps the Commission will take to encourage and support States in their efforts to develop and implement end-to-end emergency communications infrastructure and programs for the improved delivery of emergency services to the public; and,

- Clarify that VHF Public Coast Station (VPC) licensees are not required to use 911 dialing for accessing emergency services to the extent that they are providing maritime services.

We take these actions to ensure that the Congressional goals of the 911 Act for an expanded and improved nationwide emergency communications system are implemented effectively and efficiently. These actions will make emergency dialing for consumers traveling across the country simpler, will assist carriers in delivering 911 calls more promptly, and thus, will improve the response of public safety entities and emergency services personnel in their efforts to save lives.

II. BACKGROUND

2. On August 24, 2000, we adopted the Fourth Report and Order and Third Notice of Proposed Rulemaking in CC Docket No. 92-105 and the Notice of Proposed Rulemaking in WT Docket No. 00-

[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, §§ 222, 251 (911 Act).

110.[2] Pursuant to the 911 Act, the *Fourth Report and Order* designated 911 as the universal emergency assistance number for both wireline and wireless service for reporting an emergency to, and requesting assistance from, appropriate authorities.[3] The designation became effective upon the release of the *Fourth Report and Order* on August 29, 2000.

3. The *Notice* sought comment on appropriate transition periods for areas in which 911 is not currently in use as an emergency number. It also sought comment on how the Commission should facilitate States' efforts to deploy comprehensive end-to-end emergency communications systems. The Commission initiated these steps as part of a comprehensive process for ensuring that the Congressional goals of the 911 Act for an expanded and improved nationwide emergency communications system are implemented expeditiously, effectively, and efficiently. In response to the *Notice*, 11 parties filed comments and 3 parties filed reply comments.[4] In this Order, we consider the various issues raised in these comments.

III. FIFTH REPORT AND ORDER, CC DOCKET NO. 92-105 -- TRANSITION TO UNIVERSAL EMERGENCY NUMBER

A. Responsibility for Establishment of Maximum Transition Periods

4. **Background**. In the *Notice*, we sought comment on the appropriate transition periods for implementation of 911 dialing where it is not currently in use. In response to the *Notice*, BellSouth and Verizon raise the preliminary issue of whether the Commission is the appropriate entity to establish transition periods.[5] BellSouth and Verizon recommend that the Commission allow carriers, States and

[2] Implementation of the 911 Act, The Use of N11 Codes and other Abbreviated Dialing Arrangements, CC Docket No. 92-105 and WT Docket No. 00-110, *Fourth Report and Order and Third Notice of Proposed Rulemaking, and Notice of Proposed Rulemaking*, 15 FCC Rcd 17079 (2000) (*Fourth Report and Order*). *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 referred to collectively (*Notice*).

[3] Section 3 of the 911 Act, amending § 251(e) of the Act, provides as follows:

> The Commission and any agency or entity to which the Commission has delegated authority under this subsection shall designate 9-1-1 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance. The designation shall apply to both wireline and wireless telephone service. In making the designation, the Commission (and any such agency or entity) shall provide appropriate transition periods for areas in which 9-1-1 is not in use as an emergency telephone number on the date of enactment of the Wireless Communications and Public Safety Act of 1999.

[4] A list of parties filing comments and reply comments in response to the notices, along with short title references used to cite to commenting parties, appears in Appendix A. We note that we also received two *ex parte* filings from AAA and ATX, which are a part of the record in WT Docket No. 00-110. We do not, however, address those *ex parte* comments and other comments insofar as they raise issues concerning telematics, because we consider those issues outside the scope of this proceeding. In this regard, we deny WCA's "petition for rulemaking" that was included as part of its comments. *See* WCA Comments at 12-14. We do not intend our treatment here to be dispositive of how the AAA and ATX comments are treated in GEN Docket No. 00-185, concerning our pending inquiry into high-speed access to the internet over cable and other facilities.

[5] BellSouth Comments at 7; Verizon Comments at 2.

localities to establish the transition periods, because these parties are most familiar with the particular circumstances faced by their particular communities.[6] APCO, CTIA, SCC, and Wireless Consumers Alliance disagree, generally supporting the position that the Commission should establish transition periods.[7] Washington State E911 Program maintains that the Commission should be the lead federal agency to encourage partnerships among public safety organizations and federal and state government organizations in the overall implementation regarding 911.[8]

5. **Discussion**. We conclude that the Commission should establish the 911 transition periods for carriers to implement 911 dialing where it is not currently in use, rather than allowing carriers and States/localities to develop 911 transition implementation schedules on a case-by-case basis in the first instance.

6. In this context, we find first that establishing nationwide standards for maximum transition periods will best achieve the statutory goals. We also find that establishing nationwide standards will avoid multiple, inconsistent transition periods that might be set by the States. We further find that, because improving public safety on a national basis is the primary objective of the 911 Act, the Commission is best suited to coordinate a consistent implementation of universal 911.[9] We agree with Washington State E911 that a transition to universal 911 warrants a comprehensive approach.[10] The comments of public safety groups generally endorse an active Commission role.[11] We further find in this instance that such an approach is a better way to fulfill the 911 Act's intent for an expeditious implementation of 911 as the universal emergency telephone number.[12]

7. As set forth below, however, we are adopting a flexible approach that establishes maximum periods for certain technical and operational aspects of the transition and recommends steps to ensure the prompt delivery of emergency calls across the nation. Our approach highlights the important role of States and localities in their continuing efforts to improve emergency services. The Commission recognizes that the use of 911 has increased significantly since AT&T first designated 911 as an abbreviated dialing code to be used to reach emergency services in the late 1960s.[13] Recent statistics show that a large majority of communities have made significant progress in the deployment of 911.

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[6] BellSouth Comments at 7; Verizon Comments at 2.

[7] *See, e.g.*, Association of Public-Safety Communications Officials (APCO) Comments at 2; Cellular Telecommunications and Internet Association (CTIA) Comments at 2-3; SCC Communications Corp. (SCC) Comments at 2-3; Wireless Consumers Alliance Comments at 9-12.

[8] *See* Washington State E911 Program (Washington State E911) Comments at 3.

[9] *See* APCO Comments at 2 (submitting that current uncertainty in number and location of areas where basic 911 does not exist results in difficulty to determine approaches to achieve universal 911).

[10] *See* Washington State E911 Comments at 3 (suggesting need for implementation to be done in a comprehensive manner, *e.g.*, regarding transition in number usage); *see also*, House Report at 13 (1999) (noting that expeditious implementation of section 3(a) will serve to increase public safety by minimizing subscriber confusion over the appropriate emergency number to call).

[11] *See generally*, APCO Comments; NENA Comments and Reply Comments; Wireless Consumers Alliance Comments.

[12] *See* NENA Reply Comments at 1 (emphasizing that transition to 911 must not be protracted in any area where some form of emergency response can be generated by dialing a telephone number).

[13] *Fourth Report and Order*, 15 FCC Rcd at 17084 (para. 9).

NENA reports that close to 98% of the United States population has access to wireline 911 while approximately 94% of the territory of the United States is geographically covered by the service.[14] As noted in the *Fourth Report and Order*, State and local authorities have worked with telecommunications carriers to use the 911 abbreviated dialing code to provide access to increasingly advanced and effective emergency services capabilities, such as wireline Enhanced 911 (E911).[15] In fact, most large metropolitan areas are served by E911. Similarly, on the wireless side, the Commission has put in place a set of rules requiring wireless carriers to provide wireless E911 beginning as early as October 1, 2001.[16] By the actions we take today, we do not intend to delay or deter the deployment of any form of 911 service, including operation of and plans for E911, in communities that have already implemented the 911 abbreviated dialing code or are planning to do so shortly. Rather, we establish a maximum transition period to the use of 911 as the emergency number in communities and areas that have not yet implemented that abbreviated dialing code.

8. We also find that taking this approach in this context will help us ensure that the transition to 911 dialing occurs on a timely basis. The approach we adopt should allow carriers to coordinate 911 implementation with a locality establishing a new centralized emergency response service so as to ensure that the telecommunications facilities and services are in place when the locality is prepared to begin 911 service.[17] We conclude that continuing to exercise our statutory authority with respect to our jurisdiction over numbering administration will serve to achieve a more prompt implementation of the 911 Act consistent with the objective of ubiquitous deployment of 911 as the universal emergency assistance number throughout the United States.[18]

9. We further find that, by assuming oversight over the transition to the use of 911, we will facilitate our role in realizing the remaining goals of the 911 Act.[19] The 911 Act contemplates a proactive Commission role in encouraging and assisting the States in overcoming barriers to the implementation of end-to-end emergency communications networks[20] that include advanced safety systems such as "the coordination and integration of emergency communications with traffic control and

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[14] National Emergency Number Association, Report Card to the Nation, Congressional Summary 3, 8 (2001) (NENA RCN) (also reporting that 231 counties have neither wirelines nor wireless 911 service). *Cf.* http://www.nena.org/PressRoom_Publications/9-1-1_facts.htm (indicating that close to 97.8% of the U.S. population has access to 911 (visited Nov. 28, 2001) (site updated Sept. 13, 2001).

[15] *See Fourth Report and Order*, 15 FCC Rcd at 17084 (para. 9), citing *E911 First Report and Order*, 11 FCC Rcd at 18678 (paras. 1-2).

[16] Phase I: 47 C.F.R. §§ 20.18(d), (j); Phase II: 47 C.F.R §§ 20.18(e)-(h), (j).

[17] *See, e.g.*, Verizon Comments at 2 (indicating that as States or communities continue to establish emergency programs, it is Verizon's practice to coordinate with a community before initiating 911service).

[18] *See* 911 Act (preamble paragraph stating that the statute is an act "[t]o promote and enhance public safety through use of 9-1-1 as the universal emergency assistance number, further deployment of wireless 9-1-1 service, . . . , encouragement of . . . operation of . . . ubiquitous . . . networks for personal wireless services, and for other purposes.) *See also* 911 Act at section 2(b).

[19] *See, e.g.*, 911 Act at section 2(a)(2) (stating that the rapid, efficient deployment of emergency telecommunications service requires, among other things, the designation of 911 as the emergency number throughout the Nation); 911 Act at section 2(a)(5) (referring to emergency care systems, particularly in rural areas of the Nation); *see also*, 911 Act at section 2(a)(6); House Report at 13-14.

[20] *See* House Report, at 7-8.

management systems"[21] and crash notification systems.[22] Our ability to monitor effectively a flexible transition framework may have the collateral benefit of assisting us with our responsibility under the 911 Act to facilitate the efforts of the States in the development of end-to-end communications systems.[23]

B. Transition Periods for Nationwide Conversion to 911 as the Universal Emergency Telephone Number

10. **Background**. The *Notice* sought comment on the various technical and operational issues that we should consider to ensure that we allow carriers sufficient time to effectuate a transition to the use of 911.[24] In addition, the *Notice* sought comment on the steps carriers need to undertake to convert to the use of 911 and the suggested timeframes that will permit carriers to achieve transition as expeditiously as possible.[25]

11. In general, commenters appear to agree that the technical steps necessary to achieve the basic capability to translate 911 should take approximately six months.[26] Commenters also assert that additional time may be needed to account for other factors, such as coordination with PSAPs or answering points,[27] consumer education,[28] and conversion of state highway signs that inform motorists of the change to 911.[29] Commenters do not, however, focus on whether possible operational and technical differences between wireless and wireline carriers would necessitate a longer transition period for wireless carriers.[30]

12. The *Notice* also tentatively concluded that carriers should have no obligation to transmit 911 calls to a particular local agency or similar destination in areas where State and local authorities have not established a PSAP or other established answering point.[31] We sought comment on this tentative

[21] 911 Act § 2(a)(2).

[22] 911 Act § 2(a)(5).

[23] *See* 911 Act at section 3(b); Senate Report at 6; *see infra* Section IV, paras. 46-52.

[24] *Notice*, 15 FCC Rcd at 17086-87 (para. 19).

[25] *Notice*, 15 FCC Rcd at 17086-87 (para. 19).

[26] *See* SCC Comments at 2; Verizon Comments at 1-2 (estimating six months for basic 911 service and eighteen to twenty-four months for complex E911 systems); *see also*, CTIA Reply Comments at 2 (making technical changes to translate 911 calls will not be time consuming). *Cf.* Wireless Consumers Alliance Comments at 10 (referring to period of less than thirty days to reprogram mobile switching centers (MSCs)).

[27] *See* CTIA Comments at 2-3.

[28] SCC Comments at 3; Wireless Consumers Alliance Comments at 9-11.

[29] *See* NENA Comments at 3.

[30] *Notice*, 15 FCC Rcd at 17087 (para. 20). We find outside the scope of this proceeding the assertions of APCO and Washington State E911 that wireless carriers may encounter problems in relaying location information through wireline carriers who possess the original connection to a PSAP. APCO Comments at 3; Washington State E911 Comments at 3-4. *See* Letter from Marlys R. Davis, E911 Program Manager, King County, Washington E911 Program Office, Department of Information and Administrative Services, to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, dated May 25, 2000, *recon. pending.*

[31] *Notice*, 15 FCC Rcd at 17087 (para. 21).

conclusion.[32] The comments divide into two groups. NENA and Wireless Consumers Alliance generally assert that this approach overlooks the objective of the 911 Act for all 911 calls to be routed to some destination, *i.e.*, to "appropriate authorities," in accordance with section 3(a) of the 911 Act.[33] CTIA, BellSouth, and Verizon agree with the tentative conclusion, based on their view that carriers are not the entities best suited to determine the appropriate emergency answering point in the event there is none designated by State and local authorities.[34]

13. **Discussion.** We conclude that we should adopt a flexible transition approach that reflects the different technical and operational measures that carriers need to undertake and that provides carriers the flexibility necessary for them to effectuate transition to 911 expeditiously. Initially, we note that the transition period adopted herein does not apply to those carriers who currently route 911 calls to PSAPs in their service areas.

14. Before turning to the specific transition scheme, we recognize that some localities may not yet have officially designated a PSAP. Until a PSAP is so designated, there may be some entity that for all practical purposes is performing the same dispatch function as a PSAP in receiving and relaying emergency calls.[35] In this context, we address the meaning of the statutory term "appropriate authorities" to which calls should be delivered.[36] We find that, although the 911 Act does not explicitly define "appropriate authorities,"[37] this term encompasses a broad range of emergency services personnel, including PSAP and other entities that provide a similar emergency response. The 911 Act itself defines the term, "PSAP," as ". . . a facility that has been designated to receive 911 calls and route them to emergency services personnel."[38] The statute also provides a definition for "emergency dispatch providers," which ". . . shall include governmental and non-governmental providers of emergency dispatch services."[39] In addition, the findings of the Act explicitly refer to the importance of "end-to-end communications infrastructure[s]"[40] and "critical communications links"[41] among ". . . emergency dispatch providers, public safety, fire service and law enforcement officials, transportation officials, and

[32] *Notice*, 15 FCC Rcd at 17087 (para. 21).

[33] NENA Comments at 4-5; Wireless Consumers Alliance Comments at 6-7.

[34] CTIA Comments at 4; BellSouth Comments at 7-8; Verizon Comments at 2. *See also*, APCO Comments at 2 (asserting that requiring carriers to do their part to make 911 possible is of little benefit in the absence of a PSAP to route calls to the appropriate emergency response agency),

[35] For example, there may exist an emergency response center or emergency dispatch provider that may act like a PSAP, *i.e.* a fire station may call the county sheriff (or local police) where the emergency falls within the latter's jurisdiction.

[36] 911 Act at section 3(a), 47 U.S.C. § 251(e) (mandating that the Commission designate 911 as the universal emergency telephone numbers "for reporting an emergency to appropriate authorities . . . ." and ". . . provide appropriate transition periods for areas in which 9-1-1 is not in use . . . .").

[37] *See* Wireless Consumers Alliance Comments at 6 (asserting that section 2(a)(6) of the 911 Act "delineates" the term, appropriate authorities). *Cf.* 911 Act at section 2(a)(6).

[38] 911 Act at section 6(3), 47 U.S.C. §615(b).

[39] 911 Act at section 6(7).

[40] 911 Act at section 2(a)(1).

[41] 911 Act at section 2(a)(6).

hospital emergency and trauma care facilities."[42] Other sections of the 911 Act reiterate a similar list of authorities and those sections include the term PSAP with those authorities.[43] Taking together the above statutory definitions, sections, and list of emergency services personnel in the 911 Act, we find it reasonable to interpret the statutory term, "appropriate authorities," as used in the 911 Act to include emergency answering points such as county sheriff offices (*i.e.*, governmental entities), volunteer fire departments (*i.e.*, non-governmental entities), or other similar points that are effectively functioning as PSAPs for purposes of receiving emergency calls, and, if necessary, relaying the calls to other emergency service providers, for the purpose of responding to emergencies.

15. Where carriers do not currently route 911 calls to officially designated PSAPs, we establish a nine-month transition period for each of the particular circumstances carriers will face. Where a PSAP has been designated, we adopt a maximum period, running from the release of this Order and expiring nine months later, for carriers to deliver all 911 calls to that PSAP. Similarly, in areas where no PSAP has been designated, we adopt the following requirement designed to ensure the completion of 911 calls: within nine months of the release of this Order, carriers must begin delivering 911 calls: (a) to a statewide established default point; (b) if none exists, to an appropriate local emergency authority, such as the police or county sheriff, selected by an authorized State or local entity; or, finally, (c) as a matter of last resort and to avoid the blocking of 911 calls, if no PSAP has been designated and neither a statewide default answering point nor an appropriate local emergency authority has been selected, to an appropriate local emergency authority, based on the exercise of the carrier's reasonable judgment, following initiation of contact with the State Governor's designated entity under section 3(b) of the 911 Act. Although we believe carrier selection of an appropriate local emergency authority is a superior policy to blocked calls, we understand and appreciate carriers' reluctance to decide how these calls are routed. Thus, we also take this opportunity to again strongly encourage State and local authorities to designate the appropriate emergency response points. We believe these governmental agencies, as the primary safety and security agencies, should decide the routing of 911 calls. For these reasons, once a carrier has been made aware that no appropriate local emergency authority has been selected, the carrier should notify the Governor's designated entity as soon as practicable of that matter and allow at least 15 days for a response from the Governor's designated entity before proceeding to select an answering point on its own initiative.

16. Further, as discussed below, in transitioning to the use of 911, carriers must implement a permissive dialing period, during which emergency calls will be routed to the appropriate emergency response point using either 911 or the seven- or ten-digit number to allow time for the education of consumers as to the transition to the use of 911.[44] We require carriers to continue to deliver both 911 calls and emergency calls made using a seven- or ten-digit number under a permissive dialing scheme until the State or local jurisdiction determines to phase out the use of the seven- or ten-digit number entirely. Once a determination has been made to end a permissive dialing period, we require carriers to furnish a standard intercept message, in accordance with accepted industry practices and guidelines, to further educate callers about the dialing code change.

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[42] 911 Act at section 2(a)(6); *see also*, 911 Act at section 2(a)(1) for the inclusion of the same entities.

[43] *See* Wireless Consumers Alliance Comments at 5-6 (citing the 911 Act at sections 4(a) (parity) and 5 (consumer proprietary network information)).

[44] A permissive dialing period allows the use of either 911 or the other current emergency dialing number since both are routed to the same PSAP. We note that the permissive dialing period will commence immediately for carriers who are currently providing the delivery of emergency calls to PSAPs via 911 and other current emergency dialing numbers, as these carriers have already completed the translation to 911.

17. The transition approach we adopt here will fulfill the intent of the 911 Act that 911 be implemented expeditiously throughout the United States.[45] We further find that setting a maximum length for the transition period takes into account the legislative intent that "the transition periods should be determined by service area-specific circumstances and capabilities, rather than a single transition period applied to all regions."[46] In addition, providing for a transition period in areas where there is no PSAP and an additional transition period once a PSAP has been designated should be sufficiently flexible to ensure access to 911 dialing as expeditiously as possible without adversely affecting prior, ongoing, and future State and local efforts to implement E911 service, as well as implementation of the Commission's wireless E911 rules.

18. *Transition for Areas Where A PSAP Exists or Once a PSAP Is Designated.* For areas in which States or localities have established a PSAP, we require that carriers complete within nine months of the release of this Order all technical and operational measures necessary to deliver 911-dialed emergency calls to the PSAP, regardless of the seven- or ten-digit number that is used by that PSAP. We emphasize that carriers may immediately commence, if they have not already, this transition. Further, as addressed below, we require carriers to provide an additional period of permissive dialing in which both 911 and any other emergency dialing code or number that has been in use for emergency purposes may be used by consumers to reach emergency services.

19. Some commenters argue that only a short – or no – transition period is required where a PSAP exists. Because some PSAPs may still be using a seven- or ten-digit number for local emergency calls, we conclude that a transition is necessary in this circumstance. Where a seven- or ten-digit number is in use by a PSAP, carriers must prepare and modify switches to "translate" the three-digit 911 dialed emergency calls at the appropriate network points to the seven- or ten-digit emergency number in use by those PSAPs, and, subsequently, route the calls to them. As noted above, commenters generally concur that the technical measures to achieve translation for basic 911 can be readily implemented within a period of approximately six months.[47] The record shows that translation entails mostly software changes that are relatively simple for carriers to make.[48]

20. The record shows that the transition to 911 will entail more than translation, and thus, may require more than six months to complete. We agree with CTIA's contention that carriers also may need time to coordinate with local entities or authorities to ensure the appropriate routing and delivery of 911 calls and make database updates.[49] For example, CTIA asserts that there may be PSAPs for local police, county sheriff, and the state highway patrol, or other emergency authority, all within a single area.[50] Although we believe that this type of situation may occur infrequently, in such an event, carriers will

[45] *See* 911 Act at section 2(a)(2). *See also*, House Report at 13.

[46] House Report at 13-14.

[47] *See supra* at para. 11 and n.26.

[48] CTIA Comments at 2; NENA at 2; SCC Comments at 2; Wireless Consumers Alliance Comments at 9-10 (asserting that wireless carriers can quickly program their mobile switching centers (MSCs), and add 911 to them (MSCs) without disrupting the connection of emergency calls using other abbreviated numbers); *see* Verizon Comments at 1-2 (referring to a minimum of six months for the simplest 911 service); CTIA Reply Comments at 2-3 (generally concurring with comments of NENA and Wireless Consumers Alliance); NENA Reply Comments at 1.

[49] *See* CTIA Comments at 2-3.

[50] CTIA Comments at 3.

need to coordinate with PSAPs, and State/local authorities, as necessary, on which PSAP should receive the 911 call.[51] We find that although CTIA's comments refer to a situation faced by CMRS carriers who provide service to a single cell sector that contains multiple PSAP jurisdictions, wireline carriers may encounter similar situations.[52] This and other routing problems that carriers may encounter are dependent on the service area circumstances that each carrier faces.[53] Accordingly, we allow carriers additional time within which to coordinate and resolve any routing problems that are critical to the proper routing of 911 calls and provide a total period of nine months for carriers to complete the transition to 911.

21. Additionally, we recognize that there are few remaining areas where no PSAP is currently designated.[54] Although we address the transition to the use of 911 in such areas below, we note that once a State or locality designates a PSAP, carriers must commence the transition to 911 immediately following that designation. As in areas where PSAPs have been designated as of the release date of this Order, we establish a similar nine month transition period for carriers to accomplish the necessary translation and routing work. Thus, carriers must deliver 911 calls to the PSAP within nine months of the designation.

22. *Transition for Areas Where There Is Currently No PSAP.* On the basis of the discussion of issues below, we conclude that for areas in which States/localities have not designated a PSAP, within nine months of release of this Order, carriers must complete the work necessary to send 911 calls to the default answering point in the State, if a State has established one. If a statewide default answering point does not exist, we encourage the State or locality to determine an appropriate local emergency authority best suited to receive 911 calls in that particular area. In that case, we provide that carriers have nine months from the date of the request by the State or local entity to deliver 911 calls to the selected appropriate local emergency authority. Finally, if no PSAP has been designated and neither a statewide default answering point nor an appropriate local emergency authority has been selected, as a matter of last resort and to avoid the blocking of 911 calls, we require carriers to identify an appropriate local emergency authority, based on the exercise of reasonable judgment after the initiation of contact with the State Governor's designated entity under section 3(b) of the 911 Act,[55] and to complete all translation and routing necessary to deliver 911 calls to such authority no later than nine months from the release date of this Order. With regard to the foregoing situations, we encourage the parties to work cooperatively in making the determination as to where calls should be delivered so as to avoid the imposition of unnecessary burdens on carriers and the disruption that could result from multiple, successive transition periods.

23. We emphasize the substantial and overriding public interest in having an emergency answering point to which a 911 call can be delivered. We agree with NENA that if a community has been using means other than 911 to handle emergency calls and that method provides an emergency response, then for all practical purposes, an emergency dispatch service does exist, similar to that performed by a "PSAP," and a 911 call should be accordingly routed in that area.[56] Moreover, we also

[51] *See* CTIA Comments at 3.

[52] *See generally*, Verizon Comments at 1 n.3 (noting that comments address issues relating to implementation of 911 by local Verizon wireline telephone companies).

[53] Such problems may also involve the provision of transport for 911 service across LATA boundaries for purposes of routing emergency calls. *See generally*, Washington State E911 Comments at 4.

[54] NENA RCN at 3, 8.

[55] *See supra* para. 15.

[56] NENA Comments at 4.

agree with NENA and Wireless Consumers Alliance that in those few remaining areas where a PSAP has not been designated, the emergency calls should be routed to some destination. The record indicates that there still are instances in which a wireless carrier is unable to determine an appropriate answering point for 911 calls. In such instances, carriers are furnishing intercept messages alerting callers that the emergency call cannot be completed,[57] callers are receiving a recorded announcement that a non-working number has been reached, or the emergency call may be blocked.[58] The requirements we adopt in this Order seek to eliminate or lessen those occurrences to the extent feasible and ensure that persons traveling across the country have access to emergency services. Moreover, the requirements to route 911 calls to a default point are consistent with the objectives of our current rules requiring the transmission of basic 911 calls.[59]

24. Therefore, until a PSAP is designated, we adopt a requirement that within nine months of the release date of this Order, carriers deliver calls to the established statewide emergency default answering point, if one exists.[60] For example, in California, all wireless 911 calls are routed to the State Highway Traffic Agency.[61] Based on record evidence of the time necessary for translation where a PSAP currently exists, we find that carriers should be capable of performing any necessary translation or routing to an existing statewide default answering point within the same nine month time frame.

25. In the event a State has not established such a default answering point, we find that consistent with the purpose of the 911 Act and language of section 3(a), as addressed above, 911 calls must nonetheless be routed to an "appropriate authority."[62] Thus, we adopt a requirement that if there is no statewide default answering point as of the release date of this Order, carriers shall begin delivering 911 calls to an appropriate local emergency authority, for example, the existing local law enforcement authority.

26. We note that a State or locality should have a significant interest in selecting the appropriate local emergency authority to serve as the emergency response point it deems best suited for a particular area. We further realize that States or localities may prefer a particular default point -- *e.g.*, police, county sheriff, local emergency medical services provider, or fire department. We also recognize that the selection of an appropriate local emergency authority could be an interim part of a comprehensive State

[57] CTIA Reply Comments at 4.

[58] BellSouth Comments at 8; *see also*, CTIA Reply Comments at 4.

[59] Sections 20.18(b) and 22.921 of the Commission's rules. 47 C.F.R. § 20.18(b) (requiring CMRS carriers to transmit all 911 calls to a PSAP); 47 C.F.R. § 22.921 (concerning call completion requirements for dual mode and analog phones).

[60] *See* In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Memorandum Opinion and Order*, 12 FCC Rcd 22665, 22713-14 (1997) (paras. 98-99) (requiring 911 calls to be routed to incumbent PSAPs until "appropriate" or "designated" PSAP is determined by State or local entity) (*E911 First Reconsideration Order*).

[61] *See E911 First Reconsideration Order*, 12 FCC Rcd at 22713 n.255 (noting the routing of wireless emergency calls in California). *See Ex Parte* Memorandum from D. Siehl, WTB Policy Division, to M. Salas, Secretary, Federal Communications Commission, April 11, 2001 (noting that Maine routes all wireless calls to one of four regional State Police communications centers; other States may have default routing for a part of the state).

[62] 911 Act at section 3(a).

approach under the 911 Act.[63] Thus, we defer to the States and localities and require carriers to deliver 911 calls to the appropriate local emergency authority selected by an authorized State or local entity. Carriers must do so within nine months of the date of the State or local request to route the 911 calls to a particular point.

27. While we fully expect States and localities to designate appropriate local emergency authorities to receive 911 calls in virtually all areas in accordance with one of the above procedures, we cannot preclude the possibility of areas where there is no PSAP, no statewide default answering point, and the State or local authorities have not selected an appropriate local emergency authority. As a last resort, in order to avoid the blocking of 911 calls in those areas, we require carriers to make a reasonable judgment as where to deliver 911calls,[64] and complete all translation and routing necessary to deliver 911 calls to such authority no later than nine months from the release date of this Order. We find that this requirement is consistent with section 3(a) of the 911 Act, which requires us to provide an appropriate period for transition to the use of 911 in those areas where it is not in use as an emergency number on the date of enactment of the 911 Act, and with the concerns expressed by Congress concerning the ability of emergency services personnel to respond quickly and effectively, particularly in rural areas.[65] To assist carriers in this determination, we require them to initiate contact with the entity to be designated by the State's Governor pursuant to section 3(b) of the 911 Act. We also encourage carriers to notify the Governor's designated entity as soon as practicable once they are aware that no appropriate local emergency authority has been selected and to allow at least 15 days for a response before proceeding to select an answering point. Discussions with public safety organizations such as NENA and APCO also may be appropriate. Finally, Commission staff will assist carriers in resolving unanticipated difficulties, to the extent proper and necessary. Thus, due to the overriding public interest for all emergency calls to be completed and not dropped for any reason,[66] this requirement will ensure that there is a destination to which emergency calls can be delivered.

28. Further, we note that if multiple emergency service providers operate in a particular area, for example, police, fire and emergency services all operating in a particular area where a PSAP has not been designated, carriers are not required to deliver such 911 calls to more than one such entity in that local area. On the other hand, where a specific wireless cell site serves a large area in which multiple emergency services jurisdictions operate, wireless carriers serving that area may be required to deliver 911 calls to each appropriate local area jurisdiction. We strongly encourage wireless carriers and State and local authorities to work together to identify the appropriate authority or authorities to whom 911 calls should be routed from a given cell site.

29. Because we recognize that a relatively small number of jurisdictions have yet to designate a

[63] *See infra* Section IV (addressing Commission support of State emergency plans deploying end-to-end communications infrastructures, pursuant to § 3(b) of the 911 Act).

[64] In instances where carriers may encounter a refusal by a local law enforcement or other local authority to act as a default point due to, *e.g.*, lack of adequate staffing, carriers should initiate discussions with the appropriate State authorities and the entity to be designated by each State's governor under section 3(b) of the 911 Act, to coordinate on what the default point should be for each locality. Commission staff will assist in resolving unexpected difficulties.

[65] *See* House Report at 4-5 (expressing concern over the generally longer response time for emergency personnel in rural areas as compared to urban areas).

[66] *See supra* para. 23.

PSAP,[67] we find that the overall, foregoing transition approach should neither be burdensome nor result in substantial costs to carriers. BellSouth asserts that the provision of 911 in the United States has been increasing.[68] The record also shows that currently relatively few areas of the nation do not have at least basic 911 service.[69] As noted earlier, available data indicates substantial progress had occurred in the provision of 911 service by the time of the enactment of the 911 Act.[70] Thus, we find that the requirements we adopt here should not impose an undue burden on carriers, including small or rural carriers, yet will further the goals of the 911 Act. Many carriers already are working with jurisdictions throughout the States on 911-related activities, or in their effort to comply with Commission wireless E911 requirements.[71] In addition, for a few years, NENA has made available to many wireless carriers information on how they may identify PSAPs associated with their service areas in their effort to comply with the current requirement in the Commission's rules to transmit all wireless 911 calls as a part of basic 911 service.[72] Indeed, for most carriers, fulfilling the requirements adopted in this Order will be a continuation of efforts they already have underway.[73]

30. We note that the requirements we adopt in this Order require modification of the Commission's current rule requiring wireless licensees to ". . . transmit all wireless 911 calls . . . to a [PSAP] . . . ."[74] We find these rule modifications reasonable in light of the clear mandate of the 911 Act to ensure a transition to the use of 911as the emergency number in those areas where 911 was not in use at the time of enactment of the legislation and the substantial public interest in delivering all 911 calls, not just those that can be delivered to a PSAP. Moreover, the record responding to our request for comments regarding the scope of the carriers' obligation to direct calls to emergency response points other than a PSAP demonstrates a substantial need, consistent with the 911 Act, to refine sections 20.3 and 20.18(b) to reflect the new transition requirements. We have weighed the comments both for and against the Commission's initial tentative conclusion not to impose carrier obligations in those circumstances and find an overriding public interest that warrants the particular requirements we adopt today, that is, to deliver 911 calls to local appropriate emergency authorities.[75] Accordingly, we are

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[67] NENA and APCO Comments at 1 (citing CTIA's statement that, as of March, 2001, there are approximately 6,500 PSAPs in the United States). *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6512561506.

[68] BellSouth Comments at 4.

[69] APCO Comments at 2.

[70] *See supra* para. 7. *See also*, BellSouth Comments at 4 and n.2 (citing "The Development of 9-1-1," NENA, http://www.nena9-1-1.org/PressRoom_Publications/9-1-1_facts.htm).

[71] "911 Cell Phone Calls May Be Tracked, Plan in Works to Locate Emergencies from Cellular Lines," The Detroit News, Jan. 24, 2001 (referring to work of Verizon Wireless on 911 efforts throughout Michigan). In addition, our transition approach for universal 911 dialing is not meant to affect the continuing and prospective contractual processes between carriers and States, localities, or PSAPs that concerns the provision of any 911 service.

[72] *See supra*, n.49.

[73] *See supra* at para. 20 and n.49; *see also*, Verizon Comments at 1; *see generally* CTIA Comments at 3.

[74] 47 C.F.R. § 20.18(b).

[75] *See supra* at paras. 15, 23. *Cf. Notice*, 15 FCC Rcd at 17087 (para. 22). Moreover, we find that the provisions of the 911 Act and our evaluation of the record in this proceeding show the need to revise our previous reconsideration of the term PSAP. *See E911 Reconsideration Order*, 12 FCC Rcd at 22713-14 (paras. 98-99).

modifying those rule sections by including the terms "appropriate local emergency authority" and "state default answering point," as addressed above, in addition to the term PSAP.

31. Finally, we reiterate that by this Order, we are not requiring States and localities to establish a centralized emergency point or PSAP. Indeed, in the *Fourth Report and Order,* we noted that the 911 Act does not require a State or locality to establish emergency service or otherwise impose obligations on States or localities.[76] In light of the substantial public interest in having ubiquitous access to emergency service, we encourage State and local authorities to coordinate with carriers to eliminate any gaps in the delivery of emergency calls and we require carriers to deliver 911 calls in the manner described above.[77] We find that the requirements we adopt today will minimize the risk that emergency calls will not get through to an emergency answering point, until the time when a State or locality designates a PSAP.

32. *Consumer Education, Permissive Dialing, and Intercept Messages.* The *Notice* sought comment on other factors that might affect the time frame for a transition.[78] Wireless Consumers Alliance contends that the primary factor to consider in establishing transition periods is the education of consumers.[79] As such, Wireless Consumers Alliance suggests that the transition period should include sufficient time for carriers to provide billing inserts that would inform consumers of the change to 911 and when it would occur.[80] NENA asserts that the Commission should consider the time necessary for State and local jurisdictions to install or change highway signs showing that 911 is now the universal emergency assistance number.[81] Further, because more than 20 abbreviated emergency numbers were in use throughout the country prior to enactment of the 911 Act, Wireless Consumers Alliance argues that there is a need to allow the use of both 911 and other current abbreviated emergency numbers during a transition.[82]

33. We agree with both Wireless Consumers Alliance and NENA that an additional period of time is needed, before carriers no longer route non-911 emergency calls to PSAPs. However, in emphasizing prompt, rapid deployment of 911 as the universal emergency number,[83] Congress sought to minimize subscriber confusion over the appropriate emergency number to dial, without requiring States and localities to establish 911 as the exclusive emergency number.[84] We clarify that, until such time as States and localities voluntarily phase out the use of other seven- and ten-digit emergency telephone numbers, we expect carriers to continue to route non-911 emergency calls to PSAPs. Accordingly, upon completion of the transition period to deliver 911 calls to a PSAP, carriers must offer permissive dialing.

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[76] *Fourth Report and Order*, 15 FCC Rcd at 17085 (para. 11) (citing House Report at 13).

[77] We note that in the record here, public service organizations continue to make available their assistance to the small number of local governments that have not implemented 911 service. *See* APCO Comments at 2; NENA Comments at 5 n.2.

[78] *Notice*, 15 FCC Rcd at 17087 (para. 20).

[79] Wireless Consumers Alliance Comments at 11-12.

[80] Wireless Consumers Alliance Comments at 12.

[81] *See* NENA Comments at 3.

[82] Wireless Consumers Alliance Comments at 11.

[83] *See* 911 Act at sections 2(a)(2), 2(b).

[84] *See* House Report at 13.

34. We require carriers to continue to deliver both 911 calls and emergency calls made using a seven- or ten-digit number under a permissive dialing scheme until the State or local jurisdiction determines to phase out the use of the seven- or ten-digit number entirely. Based on our reading of the language of the statute and its legislative history, Congress did not prohibit States or localities from using a seven- or ten-digit emergency telephone number. Instead, Congress placed the obligation on carriers to deliver all calls made using the 9-1-1 abbreviated dialing code, regardless of whether emergency service personnel have already converted to the use of 911.[85] Thus, if we established a specific end-point to permissive dialing, the Commission would – in effect – be mandating the adoption of 911 by a State or locality by that date certain. We do not take that step here. Instead, we recommend that communities support permissive dialing until local residents are sufficiently educated to the use of 911 that it can be made the exclusive emergency number and alternative numbers for reaching a PSAP can be discontinued.[86] SCC and other commenters assert that a phase-in from one number or numbers to 911 should and can occur within a relatively short time, especially for public safety reasons.[87]

35. We decline to adopt two additional requirements suggested by Wireless Consumers Alliance. Specifically, Wireless Consumers Alliance suggests where an abbreviated dialing code other than 911 is in use, for example #77, the Commission require carriers to notify the agency using such a number that it may not continue to do so after the transition period.[88] We conclude such an explicit requirement is unnecessary, in light of the coordination we require carriers to undertake with State and local authorities. In addition, continued use of some non-911 abbreviated dialing codes may be appropriate in certain circumstances and is not, in our view, prohibited by the 911 Act.

36. Furthermore, we do not agree with Wireless Consumers Alliance that carriers should be required to provide billing inserts to customers to apprise them of the conversion to 911 as the universal emergency telephone number. We recognize, however, that billing inserts may be one appropriate means, among others, to ensure customer awareness of the availability of or change to a new abbreviated dialing code.[89] We have previously recognized that stakeholders in abbreviated dialing code changes can also take other measures to ensure that consumers are informed of the dialing code change and have the incentive to pursue a course of education and outreach.[90] Similarly, we encourage carriers, States and localities, and other parties with an interest in publicizing the transition to 911 to take other steps as part of their role in promoting the public safety. We urge the dissemination of information about the

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[85] *Id.*

[86] Once a PSAP is served by a selective router, the network performs more efficiently when the PSAP is accessed using 911 rather than other dialing codes. In addition, some of the enhanced features may only be available if 911 has been dialed.

[87] *See* SCC Comments at 2-3; NENA Comments at 3; Wireless Consumers Alliance Comments at 10.

[88] Wireless Consumers Alliance Comments at 11 (asserting that such a requirement will enable the agencies to change road signs and take other measures to notify the populace of the change in the emergency number). *See infra* para. 36.

[89] *See* The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Second Report and Order, CC Docket No. 92-105, 15 FCC Rcd 15,188, 15, 217 (para. 62) (2000) (*N11 Second Report and Order*) (referring also 911 public safety campaign by the State of Maryland); *see also*, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 5140, 5184-85 (paras. 103-104) (2000) (*Improved TRS Order*).

[90] *N11 Second Report and Order*, 15 FCC Rcd at 15,217 (para. 62).

transition to 911 as the single emergency number across the United States through such means as the mainstream media, including newspaper, radio, and television advertisements, and, also, public safety announcements on billboards, road signs, and exclusive traffic radio channels.[91] Carriers may consider the foregoing approaches as options, and we encourage them to work with States and localities in determining an efficient educational approach for an expeditious transition.

37. However, we do find that in the interests of public safety, after a State or locality chooses to discontinue a permissive dialing period, carriers must provide an intercept message when a call is made using the discontinued seven- or ten-digit emergency telephone number.[92] This requirement is consistent with the intent of the 911 Act to improve emergency service, especially in those areas where residents are accustomed to dialing a local seven- or ten-digit number or an abbreviated dialing code other than 911 for emergency service. Moreover, we have previously required a standard intercept message where a dialing pattern change has occurred, pursuant to our exclusive numbering jurisdiction under section 251(e)(1).[93] We find that a similar approach is warranted here. Thus, following the conclusion of a permissive dialing period, carriers must offer a standard intercept message.[94] Carriers must determine the appropriate message based on the circumstances in the particular area. For example, the message could instruct the caller to hang up and dial 911 to access emergency service. Alternatively, the message could inform the caller of the dialing code change and instruct the caller to stay on the line while the call is transferred to emergency services personnel. [95]

38. In the *Fourth Report and Order,* and as noted above, we indicated that some States or localities may want to continue certain abbreviated dialing code arrangements for non-emergency purposes.[96] For example, State or local arrangements to use 311 or, in other cases, # or * combined with a two digit number, may help prevent 911 call centers from being overwhelmed by non-emergency calls.[97] Such arrangements may have the effect of improving the promptness of delivering 911 emergency service.[98] Nothing in this Order is intended to impede continued use of these non-emergency dialing codes. We urge States and localities to continue to educate consumers, however, as to the transition to 911 throughout the United States and to distinguish between 911 emergency dialing and dialing codes for non-emergency purposes. The combined efforts of all interested parties to ensure that the public is informed as quickly as possible as to the use of 911 is critical to a successful and efficient transition.

39. In sum, we conclude that the foregoing approach for transition to 911 fulfills the purposes of the 911 Act and provides substantial benefits to the public by facilitating prompt deployment of an

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[91] *See id.*

[92] Wireless Consumers Alliance Comments at 10, 12.

[93] *See Carrier Identification Codes Order on Reconsideration*, 12 FCC Rcd at 17892 (para. 26).

[94] This change may be for any current emergency dialing code, regardless of the number of digits (3, 7, or 10).

[95] *See Carrier Identification Codes Order on Reconsideration*, 12 FCC Rcd at 17892 (para. 26).

[96] State Commissions may allow carriers to continue to use abbreviated dialing arrangements for non-emergency purposes until we earmark them for a specific purpose. *See Fourth Report and Order*, 15 FCC Rcd at 17085 (para. 13).

[97] *Id.*

[98] The Use of N11 Codes and Other Abbreviated Dialing Arrangements, *Third Report and Order and Order on Reconsideration*, CC Docket No. 92-105, 15 FCC Rcd 16,753, 16,768 (para. 25) (2000).

emergency communications infrastructure throughout the United States.[99] This transition scheme remains consistent with our current rules by ensuring delivery of 911 calls to existing PSAPs.[100] Recognizing that much of the groundwork for transition has been already accomplished, the approach provides carriers the flexibility necessary to address service-area-specific circumstances and specific State or local factors.[101] In addition, we find that the obligations that we impose on carriers reflect a related responsibility to coordinate with the State or locality ensuring that any area where 911 has not been in use will have 911 calls routed to an appropriate local emergency authority. For the reasons set forth above, we conclude that these requirements and measures constitute reasonable means of achieving the objectives of the 911 Act and meeting the public safety concerns that Congress intended to be resolved through the designation of 911 as the universal emergency assistance number.

C. Implementation and Enforcement of Transition Period Deadlines

40. **Background**. The *Notice* sought comment on whether as part of a monitoring effort to evaluate the progress made to convert to 911 as the universal emergency assistance number, the Commission should require carriers to file transition reports.[102] The Commission further requested comment on the nature, extent, and timing of the information to be provided.[103]

41. With the exception of APCO, most commenters generally oppose a requirement that carriers file transition reports. APCO asserts that carriers may be in the best position to provide accurate information concerning the areas not served by 911 and the Commission should consider requiring them to include such information in periodic transition reports. BellSouth and CTIA, contend, on the other hand, that State and local agencies, PSAPs or public safety agencies are the entities that are best able to provide that information.[104] CTIA refers to NENA's preparation of a "Report Card to the Nation," which will identify "areas where 9-1-1 service is basic or enhanced, and where no service yet exists," in support of its claims that PSAPs and other State and local agencies are in the best position to provide the Commission with information regarding the transition.[105] Wireless Consumers Alliance concurs with BellSouth and CTIA that carriers should not be required to file status reports on the transition;[106] instead, carriers should be allowed to file requests for waiver to show why they have been unable to initiate 911 service.[107]

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[99] 911 Act at section (2)(b).

[100] 47 C.F.R. § 20.18(b). *See also*, NENA Comments at 2 (submitting that pursuant to section 20.18(b) of the Commission's rules, wireless carriers are already required to transmit 911 dialed calls).

[101] For example, the flexible requirements we adopt allow localities that do not currently have a PSAP to retain permissive dialing for an extended period of time, including during a transition period that begins upon designation of a PSAP.

[102] *Notice*, 15 FCC Rcd at 17087 (para. 22).

[103] *Id.*

[104] BellSouth Comments at 8-9; CTIA Reply Comments at 5 (asserting that PSAPs or public safety agencies are the entities that have traditionally chosen a particular emergency number).

[105] CTIA Reply Comments at 5-6 (citing NENA Comments at n.2).

[106] BellSouth Comments at 8-9; CTIA Comments at 4; Wireless Consumers Alliance Comments at 10.

[107] Wireless Consumers Alliance Comments at 10-11.

42. **Discussion**.[108] In view of the statutory mandate of section 3(a) of the 911 Act to ensure an expeditious transition to 911 dialing throughout the Nation, we find that Commission monitoring of the transition is warranted. We find that the filing of transition reports on a limited basis, principally focused on those areas of the country in which 911 is not currently in use, will assist the Commission in accomplishing the goals of the Act while avoiding unnecessary burden on carriers.

43. Specifically, we require carriers to file two transition reports covering the following geographic areas, as identified by NENA and found in Appendix D hereto: (1) those counties where there is no 911 service; (2) those counties in the process of implementing 911; and (3) those counties that have basic 911 service only in some parts.[109] The first transition report must be filed three months following the release of this order. The second transition report must be filed 15 calendar days following the end of the transition. Carrier transition reports must be filed with the Chiefs of the Common Carrier Bureau and the Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.[110] We encourage carriers to file their transition reports electronically to the appropriate dedicated mailbox that has been established by each bureau. For ease of accessibility, a link to these reports will be placed on the Commission's E911 website. Depending upon whether the carrier's service is wireline or wireless, please email the report to either 911transitionreport-ccb@fcc.gov or 911transitionreport-wtb@fcc.gov. In addition to the information identified below, we delegate authority to the Chiefs of the Common Carrier Bureau and the Wireless Telecommunications Bureau authority to require additional information, as necessary, to evaluate the carriers' progress in achieving the transition and their compliance with the transition requirements set forth in this Order.

44. The first transition report is aimed at ensuring that carriers have commenced the transition where 911 is not currently in use and at identifying any initial problems carriers have encountered so that the Commission might assist carriers in resolving them at an early point in the process. This report must include the following information: (a) pertinent carrier identification information, including the name of the individual or individuals filing the report and contact information; (b) an identification of the local areas covered by the report; (c) whether the carrier has identified the point to which 911 calls must be delivered in each such local area; and (d) the status of the carrier's progress in completing the translation and other work necessary to route the 911 calls to the identified emergency response point. Carriers also must inform the Commission in this report of any problems encountered in identifying the proper point to which calls should be routed and of any operational problems encountered in the initial stage of the transition. To the extent carriers experience problems in identifying where 911 calls should be directed, carriers must describe the efforts they have made at coordinating with public safety agencies and State and local authorities, including the State Governor's designated entity under section 3(b) of the Act.

45. The second transition report is aimed at ensuring that the transition has been completed in all relevant areas in a timely fashion consistent with the Commission's rules. In this second transition report, carriers must include the following information: (a) pertinent carrier identification information, including the name of the individual or individuals filing the report and contact information; (b) an

[108] *Fourth Report and Order*, 15 FCC Rec. 17087 (para. 22).

[109] Data in Appendix D, supplied by NENA, is the most currently available as of December 4, 2001. *See* Memorandum from D. Siehl and S. Kimmel, WTB Policy Division, to M. Salas, Secretary, Federal Communications Commission, submitting record of *ex parte* communications with J. Hobson, Counsel for NENA, A. M. Batt, Operations and Resource Manager, NENA, and M. Foster, Project Specialist, NENA (December 5, 2001).

[110] If a carrier chooses to file in hard copy, an original and one copy of transition reports should be submitted to the Secretary's office to the attention of CCB or WTB.

identification of the local areas covered by the report; and (c) a certification that the carrier has completed the technical and routing elements of the transition in the local areas covered by the report. To consolidate reporting and eliminate redundant reports for a specific county, carriers may, at their option, collectively file both reports.

IV. REPORT AND ORDER, WT DOCKET NO. 00-110 -- SUPPORT OF COMPREHENSIVE STATE EMERGENCY PLANS

46. **Background**. In accordance with the 911 Act, the Commission sought comment on what measures it should take to encourage and support efforts by the States to deploy comprehensive emergency communications systems based on each State's coordinated plan.[111] In the *Notice,* the Commission specifically sought comment on its tentative conclusions with regard to engaging in a variety of information-sharing measures of a nature that would not interfere with the balance of responsibilities between this Commission and the States,[112] as well as the usefulness of carrier information concerning deployment.[113] In addition, the Commission requested that States and localities provide suggestions as to the types of technical and other information that would be most useful for us to provide on our E911 website.[114] We also sought comment on the value of developing a "model" state plan and on any other support, in general, the Commission could provide to States in their development of state plans.[115]

47. We received comments from nine parties in response to our requests. Only one State, Washington, provided information about the plan it had adopted for the implementation of the 911 Act

[111] Section 3(b) of the 911 Act provides as follows:

> The Federal Communications Commission shall 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 9-1-1 service. In encouraging and supporting that deployment, the Commission shall consult and cooperate with State and local officials responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, transportation officials, special 9-1-1 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses). The Commission shall encourage each State to develop and implement coordinated statewide deployment plans, through an entity designated by the governor, and to include representatives of the foregoing organizations and entities in development and implementation of such plans. Nothing in this subsection shall be construed to authorize or require the Commission to impose obligations or costs on any person.

[112] *Notice* at 17088 (para. 24).

[113] *Notice* at 17088-89 (para. 25).

[114] *Notice* at 17089 (para. 26).

[115] *Notice* at 17089 (para. 27).

requirements.[116] Comments from American Samoa License, Inc. provided significant input on, among other things, the unique circumstances of their situation and why a "one-size-fits-all" model plan would not address their particular needs.[117] On the basis of the record before us, we develop procedures to assist States and localities with implementation of their 911 Act obligations.

48. **Discussion**. Section 3(b) of the 911 Act addresses the Commission's role in fostering the implementation of advanced emergency response systems. The purpose of the legislation, as stated in the House Report, "is to encourage investment in emergency communications systems and other public safety initiatives, so that emergency organizations of States and localities are equipped with 21st Century technology to address the public safety challenges they currently face."[118] Congress recognized that, although technology may provide the key, developing comprehensive delivery systems would require "significant cooperation amongst the stakeholder parties, and significant leadership by all levels of government, . . . Federal, State and local."[119] To further that cooperation, Congress assigned the FCC a leading role in performing such tasks as "identifying and seeking solutions to overcome barriers for the implementation of end-to-end emergency communications systems."[120]

49. As directed by Congress, therefore, we assume a leadership role to encourage and support States' efforts to deploy comprehensive emergency communications networks by pursuing the approaches outlined in the *Notice*.[121] We recognize and commend the tremendous efforts put forth by a large number of States and localities in developing "state of the art" emergency response systems, including systems that utilize wireless E911. We concur with those commenters who note that efforts to develop integrated comprehensive emergency communications systems would benefit nonetheless from the leadership of both the Commission and the State Governors,[122] in light of the significant coordination and participation of representatives from transportation, emergency medical services (EMS), 911 and industry groups needed to implement ubiquitous deployment of an end-to-end emergency communications network.[123] As ComCARE states, because the wireless environment is best served by planning at a larger state or regional level,[124] and most, if not all, States lack such an inclusive planning mechanism, the parties will be able to play a more effective role if brought together under our leadership jointly with the State Governors.[125] In addition, the Washington State E911 Program states that the

[116] Washington State E911 Comments at 1-2.

[117] ASLI Comments at 3-5.

[118] House Report at 8.

[119] House Report at 7.

[120] House Report at 8.

[121] *Notice* at 17088-89 (paras. 24-27).

[122] ComCARE Comments at para. 1. See also CTIA Comments at 5 (recommending that the Commission begin a series of state-by-state meetings of this type), SCC Comments at 3, Washington State E911 Comments at 3.

[123] 911 Act at section 2(a)(2) (noting that "the rapid, efficient deployment of emergency telecommunications service requires [*inter alia*] *statewide coordination* of the efforts of local public safety officials, fire service and law enforcement official, emergency dispatch providers and transportation officials . . . ." (emphasis added)).

[124] ComCARE Comments at para. 1 (emphasizing that for wireless systems, even the physics of the network favors planning at a larger, regional scale).

[125] ComCARE Comments at para. 2-3a. *See also* NENA Comments at 7.

Commission can play a crucial role in facilitating the cooperation of local exchange carriers with wireless carriers despite differences in the geographic areas they serve or the capacity of their facilities.[126]

50. Consistent with the record before us, we find that the informal approaches suggested in the Notice and by commenters, rather than the adoption of specific rules, will accomplish the objective that we support and encourage the States in their efforts without violating the 911 Act's directive not to impose any burden on the States and localities.[127] Specifically, the Commission will maintain an ongoing dialog with State and local officials, through interactions with, for example, the National Governors' Association, the National Conference of State Legislators, and the National Association of Regulatory Utility Commissioners. The Commission also will make presentations on 911-related issues at conferences of various associations, including those of NENA and APCO, hold roundtable discussions, and provide an information clearinghouse function through its E911 website.[128] We also will explore participation in NENA's "critical issues forums,"[129] providing a website "link" for NENA's Report Card to the Nation and updates to that report,[130] and assisting in the establishment of state-level clearinghouses.[131]

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[126] SCC Comments at 3-4, Washington State E911 Comments at 3, 4 (noting that the Commission should make efforts to be lead federal agency to enable carriers to do their part to make 911 possible, such as streamlining the ordering process for connections necessary for E911 service provisioning between carrier types. Also, the Commission should encourage carriers to implement changes to order processing systems which would enhance the capability of 911 service specialists to write service orders that are comprehensive without regard to LATA or other regulatory service boundaries because restrictions exist with in LECs order processing systems that preclude ordering of services crossing LATA boundaries violating FCC rules).

[127] See e.g., NENA Comments at 7. CTIA Comments at 6, n.14 (explicitly supporting the tentative conclusion to utilize guidelines, fact sheets, meetings and any other information-sharing measures to facilitate States' efforts). NENA has suggested that we mandate that highway signs be changed to instruct motorists to dial 911 as the emergency number during the transition period, stating that such a requirement does not rise to the level of a "burden" on States and localities. NENA Comments at 3. We conclude that such a requirement would violate § 3(b)'s prohibition on costs and burdens.

[128] NENA Comments at 3.

[129] NENA Comments at 7.

[130] NENA Comments at 8 (describing the RCNs as containing information on the implementation of E911, particularly wireless calling). See also, ComCARE Comments at para. 3 (supporting such an action), NENA Comments at 7 (highlighting that the NENA website offers "tutorials" on 911 implementation. In addition, 27 of the 46 NENA chapters also have websites. On NENA's website, the "Wireless 911 Web Page," there is an implementation checklist for PSAPs developed from earlier forums.)

[131] BellSouth Comments at 9-10 (noting that state-level clearinghouses would serve as resource centers providing access to state-specific information that may not be available at the national level. This information could include information essential to carriers such as a centralized database listing telephone numbers and addresses for the local police, fire, and other emergency service providers in a particular state. Carriers, particularly new entrants, frequently have no other means of identifying and locating the relevant PSAP or other central answering point in a region so that the establishment of such a database would facilitate coordination among stakeholders and minimize delay in implementing 911. However, the contact data should not include the unlisted/unpublished routing numbers that carriers use to route E911 calls).

51. Most commenters favored the suggestion in the *Notice* that we create a "Model" state plan.[132] Recognizing the limitations on our resources, ComCARE suggests that we seek out a limited number of States interested in assistance and focus on them.[133] We find that ComCARE's suggestion has merit and will work with the State Governors' designated entities to identify specific states that would be interested in creating such a plan for their State that could later be used as a "model" state plan. In the meantime, as NENA suggests, the Commission will work with the States and public safety organizations to formulate a checklist that could be used to develop a "coordinated state plans" using information from those States that are furthest along in the process as examples for others.[134] In addition, we encourage States to share information with the Commission – in our role as an information clearinghouse – as to particular 911 solutions they have found to problems faced by many.[135] We will continue to keep States and localities informed as to our activities in encouraging and supporting the States by means of the Commission's website and public notices.

52. The informal approach we adopt in this Order will allow us greater flexibility to support the State and local authorities with respect to specific areas of difficulty and to respond to specific requests for assistance. In particular, this approach will enable the Commission to be more responsive to the particular circumstances faced by States and localities as they progress in expanding the capabilities of their emergency response systems and in incorporating the latest location technologies, consistent with the vision of the 911 Act.

V. MEMORANDUM OPINION AND ORDER ON RECONSIDERATION

53. **Background**. On September 28, 2000, Maritel, Inc. (Maritel) filed a Petition for Reconsideration or Clarification of the *Fourth Report and Order* (Maritel Petition).[136] In its petition Maritel asserts that, in the *E911 First Report and Order*, the Commission exempted VHF Public Coast Station (VPC) licensees from its 911 rules and therefore these licensees are not subject to the 911 Act.[137] Maritel seeks clarification that such licensees are not required to provide emergency service through the use of 911. NENA opposes the Maritel Petition.[138] Maritel has filed a Reply.[139]

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[132] BellSouth Comments at 10, CTIA Comments at 5-6, APCO Comments at 4 (urging that the concept could only be accomplished with active participation of public safety interests, but warning that the creation of an "advisory committee" might have FACA implications), ASLI Comments at 5 (noting that these plans should only be model and not mandatory because each jurisdiction is unique), ComCare Comments at 4 (suggesting that there should be several models to avoid the implication that the Commission's objectives are to endorse a single method of deployment rather than create a sense of safety benefits, government savings and commercial cooperation).

[133] ComCARE Comments at para. 3a.

[134] NENA Comments at 7 (noting that Virginia and North Carolina that have moved toward central administration, might serve as appropriate models).

[135] Washington State E911 Comments at 1 (providing the example of their solutions for improved E911 location and information capabilities for Multi-Line Telephone Systems and wireless telecommunications services in addressing issues such as misuse of 911 for non-emergency calls and 911 system reliability assurance).

[136] *Fourth Report and Order*, 15 FCC Rcd at 17082-83 n. 9 (declining to impose 911 regulations on "those classes of CMRS licensees with evolving real-time, two-way voice communications that have not fully developed their commercial services" citing Mobile Satellite Services in particular, but failing to mention VHF Public Coast Station Licensees).

[137] Maritel Petition at 3.

[138] Comments of NENA on Maritel Petition, November 14, 2000 (NENA Petition Opposition).

54. As a Part 80 maritime licensee, Maritel must comply with both domestic and international distress and emergency regulations unique to the maritime industry.[140] These regulations generally require Maritel to route emergency calls to one of the United States Coast Guard's (Coast Guard) forty-five Search and Rescue Coordination Centers.[141] Maritel contends that routing emergency calls in a different manner would, in most cases, delay assistance to the caller, because land-based emergency dispatch personnel are not necessarily as well-trained to respond to emergencies on the high seas or inland waterways as the Coast Guard. Maritel states that the boating, commercial shipping, and fishing industries have been familiar with Coast Guard distress and emergency transmission requirements on the high seas and inland waterways for years and that requiring these mariners to use 911 to seek emergency services will lead to confusion and delay in the deployment of emergency services.[142]

55. **Discussion**. We clarify, to the extent described below, that VPC licensees are not required to provide emergency service through the use of 911. We find that, contrary to the arguments of some parties, the language of the 911 Act and its legislative history do not require a different result.

56. We conclude, first, that the statutory language itself is ambiguous on the question of whether VPC licensees are covered by section 3(a) of the Act. NENA argues that the statutory terms "wireless telephone service" and "within the United States" encompass the operations of VPC licensees and therefore, mandate that Maritel and other VPC licensees be subject to the 911 Act.[143] NENA interprets the statute's phrase "wireless telephone service" as applying to all wireless services. Maritel argues that nowhere in the Senate report accompanying the 911 legislation is there an indication that the 911 Act would apply to the maritime industry or VPC services.[144] Furthermore, nothing in the 911 Act indicates that regulations derived from this legislation are to preempt or overrule any other FCC rules or requirements,[145] including the Part 80 emergency and distress calling systems.[146]

57. We find no such mandate as suggested by NENA in the language or legislative history of the 911 Act. The 911 Act does not define the term "wireless telephone service."[147] Thus, under well-established principles of statutory construction, where a "statute is silent or ambiguous with respect to the specific issue, the question . . . is whether the agency's answer is based on a permissible construction of the statute."[148]

(Continued from previous page)

[139] Reply of Maritel, Inc., November 29, 2000 (Maritel Petition Reply).

[140] Maritel Petition at 5.

[141] 47 C.F.R. §§ 80.311-333.

[142] Maritel Petition at 6.

[143] NENA Opposition to Maritel Petition at 1-2. *See supra* excerpt of text of 911 Act at n.3.

[144] Maritel Petition at 3-4 and Maritel Petition Reply at 3. *See also*, H. Rep. No. 106-25 at 5-9 (1999) (likewise omitting any reference to maritime services) (House Report).

[145] Maritel Petition at 4.

[146] Maritel Petition at 5 and n. 5 (citing In the Matter of Technology for Communications International, DA 99-2015, 14 FCC Rcd 16173, 16178-79 (para. 11) (1999)).

[147] *Id.*

[148] *Chevron USA v. National Resources Defense Council,* 467 U.S. 837, 843 (1984) (upholding the regulation on the basis that "the Administrator's interpretation represents a reasonable accommodation of manifestly competing (continued....)

58. Since 1996, extending through the enactment of the 911 Act in October 1999, all Part 80 Licensees have been exempted from compliance with the Commission's 911 requirements.[149] The pertinent rulemaking explains, however, that for various wireless services, changing circumstances may warrant the Commission revisiting the exemptions accorded.[150] Because of the overriding public interest in ensuring that all 911 calls are delivered to emergency service providers who can assist in quickly and effectively dispatching assistance, we find that to the extent a VPC licensee offers its customers, a land-based "real-time, two-way switched voice service that is interconnected with the public switched network,"[151] the exemption would not apply and the VPC licensee would be subject to the Commission's wireless E911 rules. On this basis, we specifically limit the exemption granted to VPC licensees to the extent that they offer maritime service.

59. We agree with Maritel that the statutory language and the legislative history accompanying the 911 Act does not address the question of whether the 911 Act applies to the maritime industry or VPC services.[152] Furthermore, nothing in the 911 Act indicates that regulations derived from this legislation are to preempt or overrule any other FCC rules or requirements relating to those services,[153] including the Part 80 emergency and distress calling systems.[154] We also agree that imposing a 911 requirement across the board to VPC licensees will not improve the effectiveness of emergency response to land-based 911 callers, but would lead to confusion among users of the specialized maritime radio service. The maritime users of VPC services already have a well-established emergency response system in place. Such users are familiar with and comply with internationally mandated maritime communications safety standards: mariners in the United States waters know that emergency calls using their VPC radio service are initiated by a "MAYDAY" call on VHF marine channel 16 or other designated emergency channel, which is monitored by other mariners as well as the Coast Guard.[155] Commission rules, which codify international agreements, specify actions that mariners must take upon hearing a distress call.[156] Requiring VPC licensees to use 911 to request emergency service would lead to

(Continued from previous page)

interests and is entitled to deference: the regulatory scheme is technical and complex, the agency considered the matter in details and reasoned fashion, and the decision involved reconciling conflicting policies." (at 865)).

[149] In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 18676, 18717-18 (paras. 82, 83) (1996) (*E911 First Report and Order*). As set forth in the *E911 First Report and Order*, VPC licensees are not required to provide emergency services via 911 dialing because, as Public Coast Stations (Part 80, Subpart J) providing service to United States coastal and inland waterways, the passengers and crews of ships on these waterways do not rely on ground-based rescue operations. Instead, they rely on internationally approved emergency regulations.

[150] *Id.*, at 1817-18 (paras. 82-83).

[151] Current rule section, § 80.123, governs VPC service. 47 C.F.R. § 80.123. We note, however, that this Order only applies to VHF Public Coast Stations and is not determinative of the applicability of the 911 Act to other Part 80 licensees including AMTS Public Coast Stations.

[152] Maritel Petition at 3-4 and Maritel Petition Reply at 3. *See also*, H. Rep. No. 106-25 at 5-9 (1999) (likewise omitting any reference to maritime services) (House Report).

[153] Maritel Petition at 4.

[154] Maritel Petition at 5 and n. 5 (citing In the Matter of Technology for Communications International, DA 99-2015, 14 FCC Rcd 16173, 16178-79 (para. 11) (1999)).

[155] Maritel Petition Reply at 5-6.

[156] *See* 47 C.F.R. §§ 80.311-80.333.

confusion by these radio users and potentially delay deployment of emergency services.[157]

60. Moreover, we disagree with NENA's view that application of the statute to VPC licensees' maritime services is necessary to further the explicit purposes of the 911 Act. A chief goal of the 911 Act is to promote and enhance public safety through the use of 911as the universal emergency assistance number.[158] The 911 Act also identifies this goal as one requirement for the rapid, efficient deployment of emergency telecommunications service.[159] Further, the Senate and House Reports to the 911 Act conclude that this lack of a consistent number hampers the usefulness of wireless telephones in emergency situations, fosters confusion and uncertainty for those who need assistance and delays the arrival of emergency medical care often making the critical difference in saving lives.[160] By limiting the scope of the exemption to our rules to VPC licensees' maritime services only, and not to any land-based services provided by those entities, we find that the policy goals of the 911 Act are not implicated.[161]

61. NENA also suggests that the Coast Guard rescue facilities could function as a PSAP in that upon receiving the 911 signal, the Coast Guard would dispatch the appropriate emergency response.[162] While we encourage cooperation among the Coast Guard and PSAPs in responding to emergencies, we find that NENA's suggestion does not take account of the complexity and specialized resources and skills often necessary for maritime rescues and the well-established interoperable modes of communication used for these purposes.[163] We find no practical advantage to require VPC licensees, to the extent they offer maritime services exclusively, to use 911 as their emergency dialing number.

62. In sum, we conclude that the narrow exemption we affirm here is consistent with the public interest and the policy goals of the 911 Act. For these reasons, we grant Maritel's Petition for Reconsideration or Clarification.[164]

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[157] Of course, customers seeking emergency assistance by using a cellular or PCS telephone on a waterway, rather than a VHF marine radio, would dial 911, just as they would while they are on land.

[158] *See* 911 Act (preamble) (emphasis added).

[159] 911 Act at section 2(a)(2).

[160] S. Rep. No. 106-138 at 2 (1999) (noting that as many as 20 different emergency numbers are used by wireless carriers across the United States) (Senate Report); House Report at 6-7 (1999) (specifying the problems encountered by motorists travelling across the country who do not have one, ubiquitous number to call for emergency medical care).

[161] In any event, assuming, *arguendo*, that the statute did apply to VPC licensees, we believe that this might be an appropriate case for waiver.

[162] NENA Opposition to Maritel Petition at 3-4. NENA does not mention how Coast Guard stations would be treated as PSAPs with regard to the Commission's E911 requirements and Phase I and Phase II implementations.

[163] *See* Maritel Petition Reply at 5-6.

[164] As a result of our decision on the Maritel Petition, Maritel's comments in response to both 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 considered moot.

VI. PROCEDURAL ISSUES

A. Final Regulatory Flexibility Act Statement

63. As required by the Regulatory Flexibility Act (RFA),[165] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM) and the Third NPRM (Third NPRM) in this proceeding.[166] The Commission sought written public comment on the proposals in the NPRM and the Third NPRM, including comment on both IRFAs. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[167]

B. Paperwork Reduction Analysis

64. The Fifth Report and Order contains a 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 collection contained in this Report and Order, as required by the Paperwork Reduction Act of 1995.[168] Public and agency comment are due 60 days from the date of publication of this Fifth Report and Order in the Federal Register; OMB comments are due 120 days from the date of publication of this Fifth Report and Order in the Federal Register. The Commission will submit a request to OMB for emergency approval of the PRA burdens contained in this order. Once approval is received, the Commission will place an announcement in the Federal Register. Comments should address:

- Whether the modified collection of information is necessary for the proper performance of the function of the Commission, including whether the information shall have practical utility.
- The accuracy of the Commission's burden estimates.
- Ways to enhance the quality, utility, and clarity of the information collected.
- Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques of other forms of information technology.

65. Written comments by the public on the information collections are due 60 days after the date of publication in the Federal Register. Written comments must be submitted by the OMB on the information collections on or before 120 days after the date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 Twelfth Street, S.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov, and to Ed Springer, OMB Desk Officer, Room 10236 New Executive Office Building, 725 Seventeenth Street, N.W., Washington, D.C. 20503, or via the Internet to Edward.Springer@omb.eop.gov.

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[165] *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).

[166] 15 FCC Rcd 17079, 17093, 17103.

[167] *See* 5 U.S.C. § 604.

[168] *See* Pub. L. No. 104-13.

C. *Ex Parte* Presentations

66. Section IV of this item, Report and Order, WT Docket No. 00-110 -- Support of Comprehensive State Emergency Plans, continues as a permit-but-disclose proceeding. 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.[169]

D. Further Information

67. For further information concerning the proceedings addressed herein, contact David Siehl or Susan Kimmel, Policy Division, Wireless Telecommunications Bureau at (202) 418-1310, or Cheryl Callahan of the Network Services Division, Common Carrier Bureau at (202) 418-2320.

VII. ORDERING CLAUSES

68. Accordingly, IT IS ORDERED that, pursuant to 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, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 160, 210, 202, 208, 214, 251(e), 301, 303, 308, 309(j), and 310, the FIFTH REPORT AND ORDER in CC Docket No. 92-105 is hereby ADOPTED.

69. IT IS FURTHER ORDERED that, Part 64, new Subpart AA, of the Commission's rules IS ADOPTED to require wireline and wireless licensees to complete the transition to 911 as the universal emergency assistance number, as set forth in Appendix B, and WILL BECOME EFFECTIVE 30 days after publication in the Federal Register, provided however, that Part 64 of the Commission's rules, new Subpart AA, section 64.3002, AS ADOPTED HEREIN, concerning the provision of translation software WILL BECOME EFFECTIVE UPON APPROVAL BY THE OFFICE OF MANAGEMENT AND BUDGET.

70. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Memorandum Opinion and Order, Fifth Report and Order and First Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

71. IT IS FURTHER ORDERED that, pursuant to 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, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 160, 210, 202, 208, 214, 251(e), 301, 303, 308, 309(j), and 310, the FIRST REPORT AND ORDER in WT Docket No. 00-110 is hereby ADOPTED.

[169] 47 C.F.R. §§ 1.1202, 1.1203, 1.1206(a).

72. IT IS FURTHER ORDERED that the Petition for Reconsideration or Clarification of the Fourth Report and Order, in CC Docket No. 92-105, filed by Maritel, Inc. on September 28, 2000, IS GRANTED to the extent described herein.

73. IT IS FURTHER ORDERED that authority is hereby delegated to the Chiefs of the Common Carrier Bureau and the Wireless Telecommunications Bureau to require additional information, as necessary, to evaluate carriers progress in achieving the transition to the use of 911 and their compliance with the transition requirements set forth in this Order.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

APPENDIX A

LIST OF PARTIES

American Automobile Association	AAA
American Samoa License, Inc.	American Samoa License
Association of Public-Safety Communications Officials	APCO
ATX Technologies, Inc.	ATX
BellSouth Corporation	BellSouth
The ComCare Alliance	ComCare
Cellular Telecommunications Industry Association	CTIA
Maritel, Inc.	Maritel
National Emergency Number Association	NENA
SCC Communications Corp.	SCC
The Verizon Telephone Companies	Verizon
Washington State E911 Program	Washington State E911
Wireless Consumers Alliance	Wireless Consumers Alliance

Appendix B

For the reasons discussed in the accompanying *Fifth Report and Order*, parts 20 and 64 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 20 – COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for part 20 continues to read as follows:
Authority: 47 U.S.C. 154, 160, 251-254, 303, and 332 unless otherwise noted.

2. Section 20.3 is amended by adding definitions of "appropriate local emergency authority" and "statewide default answering point" in alphabetical order to read as follows:

§ 20.3 Definitions.

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Appropriate local emergency authority. An emergency answering point that has not been officially designated as a Public Safety Answering Point (PSAP), but has the capability of receiving 911 calls and either dispatching emergency services personnel or, if necessary, relaying the call to another emergency service provider. An appropriate local emergency authority may include, but is not limited, to an existing local law enforcement authority, such as the police, county sheriff, local emergency medical services provider, or fire department.

* * * * *

Statewide default answering point. An emergency answering point designated by the State to receive 911 calls for either the entire State or those portions of the State not otherwise served by a local PSAP.

* * * * *

3. Section 20.18(b) is revised to read as follows:

§ 20.18 911 Service.

* * * * *

(b) Basic 911 Service. Licensees subject to this section must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, or, where no Public Safety Answering Point has been designated, to a designated statewide default answering point or appropriate local emergency authority pursuant to § 64.2502 of this chapter, provided that "all wireless 911 calls" is defined as "any call initiated by a wireless user dialing 911 on a phone using a compliant radio frequency protocol of the serving carrier."

* * * * *

Part 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

4. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 47 U.S.C. 225, 47 U.S.C. 251(e)(1), 151, 154, 201, 202, 205, 218-220, 254, 302, 303, and 337 unless otherwise noted. Interpret or apply sections 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201-204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

5. Add subpart AA to part 64 to read as follows:

Subpart AA – Universal Emergency Telephone Number

Sec. 64.3000. Definitions.
Sec. 64.3001. Obligation to transmit 911 calls.
Sec. 64.3002. Transition to 911 as the universal emergency telephone number.
Sec. 64.3003 Obligation for providing a permissive dialing period.
Sec. 64.3004 Obligation for providing an intercept message.

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 157, 160, 210, 202, 208, 214, 251(e), 301, 303, 308, 309(j), and 310.

* * * * *

§ 64.3000 Definitions.

(a) *911 call.* Any call initiated by an end user by dialing 911 for the purpose of accessing an emergency service provider. For wireless carriers, all 911 calls include those they are required to transmit pursuant to § 20.18 of the Commission's rules.

(b) *Appropriate local emergency authority.* An emergency answering point that has not been officially designated as a Public Safety Answering Point (PSAP), but has the capability of receiving 911 calls and either dispatching emergency services personnel or, if necessary, relaying the call to another emergency service provider. An appropriate local emergency authority may include, but is not limited to, an existing local law enforcement authority, such as the police, county sheriff, local emergency medical services provider, or fire department.

(c) *Public Safety Answering Point (PSAP).* A facility that has been designated to receive 911 calls and route them to emergency services personnel.

(d) *Statewide default answering point.* An emergency answering point designated by the State to receive 911 calls for either the entire State or those portions of the State not otherwise served by a local PSAP.

§ 64.3001 Obligation to transmit 911 calls.
All telecommunications carriers shall transmit all 911 calls to a PSAP, to a designated statewide default answering point, or to an appropriate local emergency authority as set forth in § 64.3002.

§ 64.3002 Transition to 911 as the universal emergency telephone number.
As of December 11, 2001, except where 911 is already established as the exclusive emergency number to reach a PSAP within a given jurisdiction, telecommunications carriers shall comply with the following transition periods:

(a) Where a PSAP has been designated, telecommunications carriers shall complete all translation and routing necessary to deliver 911 calls to a PSAP no later than September 11, 2002.

(b) Where no PSAP has been designated, telecommunications carriers shall complete all translation and routing necessary to deliver 911 calls to the statewide default answering point no later than September 11, 2002.

(c) Where neither a PSAP nor a statewide default answering point has been designated, telecommunications carriers shall complete the translation and routing necessary to deliver 911 calls to an appropriate local emergency authority, within nine months of a request by the State or locality.

(d) Where no PSAP nor statewide default answering point has been designated, and no appropriate local emergency authority has been selected by an authorized state or local entity, telecommunications carriers shall identify an appropriate local emergency authority, based on the exercise of reasonable judgment, and complete all translation and routing necessary to deliver 911 calls to such appropriate local emergency authority no later than September 11, 2002.

(e) Once a PSAP is designated for an area where none had existed as of December 11, 2001, telecommunications carriers shall complete the translation and routing necessary to deliver 911 calls to that PSAP within nine months of that designation.

§ 64.3003 Obligation for providing a permissive dialing period.
Upon completion of translation and routing of 911 calls to a PSAP, a statewide default answering point, to an appropriate local emergency authority, or, where no PSAP nor statewide default answering point has been designated and no appropriate local emergency authority has been selected by an authorized state or local entity, to an appropriate local emergency authority, identified by a telecommunications carrier based on the exercise of reasonable judgment, the telecommunications carrier shall provide permissive dialing between 911 and any other seven- or ten-digit emergency number or an abbreviated dialing code other than 911 that the public has previously used to reach emergency service providers until the appropriate State or local jurisdiction determines to phase out the use of such seven- or ten-digit number entirely and use 911 exclusively.

§ 64.3004 Obligation for providing an intercept message.
Upon termination of permissive dialing, as provided under § 64.3003 of this part, telecommunications carriers shall provide a standard intercept message announcement that interrupts calls placed to the emergency service provider using either a seven- or ten-digit emergency number or an abbreviated dialing code other than 911 and informs the caller of the dialing code change.

EFFECTIVE DATE NOTE: these rules will be effective 30 days after publication in the Federal Register except for § 64.3002 which contains information collection and record keeping requirements and will become effective upon approval by the Office of Management and Budget.

APPENDIX C — Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[170] Initial Regulatory Flexibility Analyses (IRFA) were incorporated in the Notice of Proposed Rulemaking (NPRM) [171]and the Third NPRM (Third NPRM) in this proceeding.[172] The Commission sought written public comment on the proposals in the NPRM and the Third NPRM, including comment on both IRFAs. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[173]

A. NEED FOR, AND OBJECTIVES OF THE MEMORANDUM OPINION AND ORDER ON RECONSIDERATION AND FIFTH REPORT AND ORDER

In this Memorandum Opinion and Order on Reconsideration and Fifth Report and Order (Fifth R&O) in CC Docket No. 92-105, and First Report and Order (First R&O), collectively referred to as Order, in WT Docket No. 00-110, the Commission takes further steps to implement the provisions in the Wireless Communications and Public Safety Act of 1999 (911 Act), enacted by Congress to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. The actions adopted in the First R&O and Fifth R&O are intended to ensure that the Congressional goals of the 911 Act for an expanded and improved nationwide emergency communications system are implemented effectively and efficiently. These actions will make emergency dialing for consumers traveling across the country more simple and more accessible, will assist carriers in delivering 911 calls more promptly, and thus, will improve the response of public safety entities and emergency providers in their efforts to save lives.

B. SUMMARY OF SIGNIFICANT ISSUES RAISED BY PUBLIC COMMENTS IN RESPONSE TO THE IFRAs

No comments were filed in direct response to the IRFAs. However, the Commission received comments regarding several issues affecting small entities. For example, the Commission sought comment on the appropriate transition periods for implementation of universal 911 dialing. As discussed in paragraphs 4-9 of the Fifth R&O, two commenters questioned whether the Commission is the appropriate entity to establish transition periods, arguing that the Commission should allow carriers and States and localities to establish the transition periods because these parties are most familiar with the particular circumstances faced by their particular communities. The Commission disagrees, finding that to delegate the responsibility for establishing transition periods to carriers, States and localities could result in multiple, conflicting transition periods. The Commission's approach is supported by the comments of public safety groups and fulfills the 911 Act's intent for an expeditious implementation of 911 as the universal emergency telephone number. The Commission also sought comment on whether, as part of a monitoring effort to evaluate the progress made to convert to 911, we should require carriers to file transition reports. As discussed in Paragraphs 42-45 of the Fifth Report and Order, most commenters generally oppose such a requirement. However, the Commission believes that the filing of transition reports, only on a limited basis, will help the Commission to satisfy its statutory obligation to

[170] *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).

[171] 15 FCC Rcd 17103.

[172] 15 FCC Rcd 17093.

[173] *See* 5 U.S.C. § 604.

ensure an expeditious transition to 911 dialing throughout the nation. The requirement, as adopted, would be limited and less burdensome to carriers then the transition report requirement suggested in the NPRM because only two reports will need to be filed and only those carriers providing service in areas where 911 has not been implemented as the emergency number will be affected by this burden. This requirement is discussed in more depth in the FRFA section considering steps taken to minimize the significant economic impact on small entities and alternatives considered.

Paragraphs 48-52 of the First R&O discusses ways in which the Commission can comply with its obligation to offer support of comprehensive state emergency plans. Although the Commission received only nine comments on this issue, one comment, for American Samoa License, Inc., in particular, provided significant input on, among other things, the unique circumstances of their situation and way a "one-size-fits-all" model plan would not address their particular needs. In response to such comment, the Commission adopts an informal leadership approach to its responsibilities in this regard, for example participating in organizational meetings setup by interested parties, and placing details of information-sharing measures by means of our website and public notice, which we hope will encourage increased participation to which we can add our support.

C. DESCRIPTION AND ESTIMATE OF THE NUMBER OF SMALL ENTITIES TO WHICH 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 adopted in this action.[174] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[175] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[176] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[177]

A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[178] Nationwide, as of 1992, there were approximately 275,801 small organizations.[179] The definition of "small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000." [180] There are 85,006 governmental jurisdictions in the nation.[181] This

[174] 5 U.S.C. § 604(a)(3).

[175] *Id.* § 601(6).

[176] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[177] Small Business Act, 15 U.S.C. § 632 (1996).

[178] *5 U.S.C.* § 601(4).

[179] 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).

[180] 5 U.S.C. § 601(5).

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 96 percent, have populations of fewer than 50,000.[182] The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or about 81,600, are small entities that may be affected by our rules.

The following list includes categories that at present may not be subject to the 911 Act rules. At present, covered carriers include all cellular licensees, broadband PCS licensees, and certain carriers of Specialized Mobile Radio (SMR) licensees.[183] The SMR providers that are presently covered include "only licensees that offer real-time, two-way switched voice service that is interconnected with the public switched network, either on a stand-alone basis or packaged with other telecommunications services."[184] For those carriers that presently do not need to comply with the 911 requirements, such as Mobile Satellite Service (MSS) carriers,[185] the Commission acknowledges that, at some point in the future, they may be required to provide appropriate access to emergency services.

Neither the Commission nor the SBA has developed definitions for small providers of the specific industries affected. Therefore, throughout our analysis, the Commission uses the closest applicable definition under the SBA rules, the North American Industry Classification System (NAICS) standards for "Cellular and Other Wireless Telecommunications" and "Wired Telecommunications Carriers." [186] According to these standards, a small entity is one with no more than 1,500 employees. To determine which of the affected entities in the effected services fit into the SBA definition of small business, the Commission has consistently referred to Table 5.3 in *Trends in Telephone Service* (*Trends*) a report published annually by the Commission's Common Carrier Bureau. [187]

Local Exchange Carriers. According to the most recent *Trends* data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, or are not independently owned. However *Trends* indicates that 1,037 local exchange carriers report that, in combination with their affiliates, they have 1,500 or fewer employees, and would thus be considered small businesses as defined by NAICS.

We have included small incumbent local exchange carriers in this RFA analysis. As noted

(Continued from previous page)

[181] 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

[182] *Id.*

[183] *E911 First Report and Order*, 11 FCC Rcd at 18682, 18716 (paras. 10, 81).

[184] *E911 First Report and Order*, 11 FCC Rcd at 18716-17 (para. 81).

[185] *E911 First Report and Order*, 11 FCC Rcd at 18716-18 (paras. 81-83).

[186] North American Industry Classification System (NAICS) codes 513322 and 51331.

[187] FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone* Service, Table 5.3 (December 2000). Estimates of entities employing 1,500 or fewer employees are based on gross revenues information filed April 1, 2000, combined with employment information obtained from ARMIS and Securities and Exchange Commission filings as well as industry employment estimates published by the Bureau of Labor Statistics. The estimates do not reflect affiliates that do not provide telecommunications services or that operate only in foreign countries.

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."[188] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope.[189] We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

Also included in the number of Local Exchange Carriers is the rural radio telephone service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[190] 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 NAICS definition.

Competitive Access Providers and Competitive Local Exchange Carriers (CAPs and CLECs). *Trends* indicates that 349 CAPs and CLECs, 87 local resellers, and 60 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services. We do not have data specifying the number of these carriers that are not independently owned and operated, however, *Trends* states that 297 CAPs and CLECs, 86 local resellers, and 56 other local exchange carriers report that, in combination with their affiliates, they have 1,500 or fewer employees for a total of 439 such entities qualified as small entities.

Fixed Local Service Providers and Payphone Providers. *Trends* reports that there are 1,831 fixed local service providers and 758 payphone providers. Using the NAICS standard for small entity of fewer than 1,500 employees, *Trends* estimates that 1,476 fixed local service providers, in combination with affiliates have 1,500 or few employees and thus qualify as small entities. In addition, 755 payphone providers report that, in combination with their affiliates, they employ 1,500 or fewer individuals.

Wireless Telephone Including Cellular, Personal Communications Service (PCS) and SMR Telephony Carriers. There are 806 entities in this category as estimated in *Trends,* and 323 such licensees in combination with their affiliates have 1,500 or fewer employees and thus qualify using the NAICS guide, as small businesses.

Other Mobile Service Providers. *Trends* estimates that there are 44 providers of other mobile services, and again using the NAICS standard, 43 providers of other mobile services in combination with their affiliates hire 1,500 or fewer employees and thus may be considered small entities.

Toll Service Providers. *Trends* calculates that there are 738 toll service providers, including 204 interexchange carriers, 21 operator service providers, 21 pre-paid calling card providers, 21 satellite

[188] 5 U.S.C. § 601(3).

[189] *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC, dated May 27, 1999. The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* CC Docket, 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996).

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

service carriers, 454 toll resellers, and 17 carriers providing other toll services. *Trends* further estimates that 656 toll service providers with their affiliates have 1,500 or fewer employees and thus qualify as small entities as defined by NAICS. This figure includes 163 interexchange carriers, 20 operator service providers, 20 pre-paid calling card providers, 16 satellite service carriers, 423 toll resellers, and 15 carriers providing other toll services.

Offshore Radiotelephone Service. This service operates on several TV broadcast channels that are not otherwise used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications. The Commission assumes, for purposes of this FRFA, that all of the 55 licensees are small entities, as that term is defined by NAICS.

D. DESCRIPTION OF PROJECTED REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS

The Commission adopts a flexible approach of basic requirements based on maximum periods for certain technical and operational aspects of a transition and recommends steps to ensure the prompt delivery of emergency calls across the nation. Paragraphs 10-21of the Fifth R&O consider transition periods for areas where there is a designated public safety answering point (PSAP) or once a PSAP is designated. For areas in which State or local authorities have established a PSAP, the Commission adopts a maximum nine-month transition period that runs from the release date of the Fifth R&O, for carriers to deliver all 911 calls to that PSAP. Subsequent to the transition period, in areas where currently there is a PSAP, or once one is designated, the Commission establishes a permissive dialing period that will provide carriers with times to educate consumers on the transition. The Commission also encourages such carriers, following the permissive dialing period to furnish a standard intercept message. (*See* paragraphs 16 and 34 of the Fifth R&O).

Also, as detailed in paragraphs 22-31 of the Fifth R&O, in areas where there is no PSAP, the Commission adopts the following requirements: within nine months of the effective date of this Fifth R&O, carriers must begin delivering 911 calls to either a statewide established default point or, if none exists, to an appropriate local emergency authority, such as the police or country sheriff. If a State or local authority prefers that carriers deliver 911 calls to some other local default point, the Commission provides that carriers will have to begin delivering 911 calls to such a default point no later than nine months from the date of the request by the local authority or appropriate State entity. Once a State or local authority has formally designated a PSAP for an area, a carrier will have a nine-month period to deliver 911 calls to that PSAP. Paragraph 27 of the Fifth R&O establishes a requirement that carriers operating in areas where no appropriate local emergency authority has been selected to contact, as soon as possible, the entity designated by the governor to assist in implementation of 911, and to allow 15 days for a response. If none is forthcoming, then carriers should exercise reasonable judgement in determining where to deliver 911 calls.

Paragraphs 43-45 of the Fifth R&O consider implementation and enforcement of transition period deadlines. In this regard, the Commission adopts a limited transition report requirement which would provide that carriers serving areas where 911 is not in use as the emergency number on the date of enactment of the law file two reports at detailed in paragraphs 43-45 of the Fifth R&O. Also, in this regard, the Commission indicates that a party use the section 208 complaint process to pursue a claim against a carrier for violating the 911 Act or the Commission's rules.

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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) any exemption from coverage of the rule, or any part thereof, for such small entities.[191]

The Commission is limited in establishing less stringent requirements for small entities in this proceeding by the critical public safety issues of concern and by legislative mandate. The results of delayed or insufficient response to wireless 911 calls can be equally fatal whether the carrier involved is a large or small entity. When given alternatives which do not compromise the public safety goals of this proceeding but offer all entities the flexibility to carry out their responsibilities in a way that is tailored to their individual locality and its needs, the Commission, in the Fifth R&O and First R&O, has chosen the more flexible option. For example, in areas where there is neither a PSAP nor a statewide default answering point, many of which are served by small carriers or are governed by small entities, an existing local law enforcement agency such as a country sheriff could serve as the local emergency authority.

On the other hand, several carrier-commenters recommend that the Commission allow carriers and States and localities to establish transition periods for implementation of 911 dialing. As discussed in paragraphs 4-9 of the Fifth R&O, the Commission declines to adopt this proposal finding that to delegate such authority to carriers and PSAPs could result in multiple, conflicting transition periods and create confusion in critical emergency situations as travelers move from one locality to another. Further, the Commission finds that delegating the authority to establish 911 transition periods to carriers and PSAPS could hinder the Commission 's ability to ensure that the transition to 911 dialing occurs on a timely basis and could hinder the Commission's overall ability to monitor the transition to 911 as the nationwide emergency number. If the Commission had authorized carriers, States and localities to establish 911 transition periods, it would place the responsibility and burden for this obligation on the entities, many of whom are small. It should be noted, however, that the Commission recognized the need for a transition period, noting the fluid nature of technology, and provided the flexible transition period adopted in the Fifth R&O. The transition period will allow both large and small carriers time not only to complete the technological updates and coordination which may be necessary to provide 911 service, but will also provide carriers with time to educate the public regarding 911 service. Also, in establishing flexible transition periods, the Commission recognizes that individual service areas face different technical and operational measures thus providing, for example, a different timetable for carriers operating where there is currently no PSAP than for those who already have a designated PSAP.

In this regard, as discussed in paragraphs 32-39, the Commission elects not to require that carriers educate the public about 911 transition, but simply encourages carriers to plan and provide time in the transition period for planning and executing a public education program. Several commenters suggest additional requirements regarding educating the public, which the Commission found to be unnecessary and burdensome, particularly on small entities. One commenter, for example, proposed a requirement that carriers service areas that currently use non 911 abbreviated numbers for emergency purposes, notify the agency using such numbers that they will not be available after the transition period. The same commenter recommended requirements for carriers to provide billing inserts apprising

[191] 5 U.S.C. § 603(c)

customers of the conversion to 911 as the universal emergency assistance number. The Commission encourages such public education efforts, but after the permissive dialing period is discontinued, requires the carriers to intercept calls made via non-911 emergency numbers with an announcement to the caller to dial 911 if the call is an emergency. This offers all carriers, including small carriers, the flexibility to design the appropriate public education program that best satisfies the need for 911 education within the individual service area, while offering the carrier come control over expenditures in this area.

In one area, however, the Commission, faced with its legislative mandate to monitor the progress of carriers in the transition to 911, adopted a requirement that would particularly impact on rural and small carriers. As indicated in paragraphs 42-45 of the Fifth R&O, the Commission adopts a limited requirement for transition reports. In the NPRM, the Commission proposed a broader approach to transition reports that would affect all carriers and would be filed on a more regular basis than the requirement adopted in the Fifth R&O. The adopted requirement states that only those carriers providing service in areas where 911 is not in use as the emergency number on the date of enactment of the law file two reports. The filing of the reports will be limited to those counties where there is no 911 service; those counties that are in the process of implementing 911; and those counties that have basic 911 service only in some parts. The first report is to be filed March 11, 2002 and the second report 15 calendar days after the end of the transition period. Although the actual regulation is less burdensome overall on all carriers, it is likely which do not yet offer 911 service would be small entities as defined by the SBA. In addition, as described in paragraph 27 of the Fifth R&O, the Commission adopts a requirement that carriers servicing areas where no PSAP or appropriate local emergency authority has been established must initiate contact with the entity designated by the governor before exercising reasonable judgment as to where to deliver 911 calls.

The Commission recognizes that the burden for making progress towards 911 implementation will fall, during the transition period, mainly on small and rural entities because they are most likely to have the most progress to make in implementing 911. (They may cover larger, less populated areas with fewer medical or law enforcement facilities who may face funding problems and who may have farther to go in achieving the expensive technological advances which facilities servicing more urban areas have had access to for some time. By the same token, however, these same disadvantages that many such small carriers and State or local governments face, also dictate a more drastic need for optimum 911 emergency service as quickly as possible.) The Commission has tried to make compliance with 911 rules and implementation dates as fair as possible to small entities by, for example, establishing flexible transition periods. In establishing the limited transition report requirement, the Commission provided the carriers might, at their option, consolidate reporting and eliminate redundant reports by filing the two transition reports collectively, thus saving the affected carriers time and finances. It is intended that the transition reports will provide the Commission with information leading to solutions to the unique problems faced by small entities in the implementation of 911 service. In addition, the Commission hopes the reporting process will generate a cooperative dialogue regarding how entities with similar problems can resolve such issues.

The Commission, instead of establishing a proposed program that would require carriers, and PSAPS, large and small, to provide information to each other or to the Commission regarding problems exclusive to their locality establishes an informal program in which the Commission would serve as a clearinghouse for such information. Further, instead of establishing a coordination requirement forcing PSAPs and carriers to meet to discuss intra-locality issues, the Commission emphasizes the importance of assuming a leadership rule in providing coordination and technical assistance and endorses the joint leadership of the Commission and State Governors in this area to assist parties involved with integrated comprehensive emergency communications systems. (Paragraphs 46-52 of the First R&O.)

Report to Congress: The Commission will send a copy of this decision, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(a). In addition, the Commission will send a copy of the Order, including this FRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this decision and FRFA (or summaries thereof) will also be published in the Federal Register. *See* 5 U.S.C. 604(b).

APPENDIX D*-- List of Counties Without Full Implementation of Basic 911

I. COUNTIES WHERE THERE IS NO 911 SERVICE

	COUNTY NAME	STATE NAME	FIPS CODE**
1.	Greene	Alabama	01063
2.	Anchorage	Alaska	02020
3.	Lake and Peninsula	Alaska	02164
4.	Matanuska-Susitna	Alaska	02170
5.	Nome	Alaska	02180
6.	Southeast Fairbanks	Alaska	02240
7.	Wade Hampton	Alaska	02270
8.	Cleveland	Arkansas	05025
9.	Johnson	Arkansas	05071
10.	Scott	Arkansas	05127
11.	San Juan	Colorado	08111
12.	Atkinson	Georgia	13003
13.	Baker	Georgia	13007
14.	Berrien	Georgia	13019
15.	Bleckley	Georgia	13023
16.	Calhoun	Georgia	13037
17.	Candler	Georgia	13043
18.	Chattahoochee	Georgia	13053
19.	Clay	Georgia	13061
20.	Clinch	Georgia	13065
21.	Cook	Georgia	13075
22.	Crawford	Georgia	13079
23.	Dooly	Georgia	13093
24.	Irwin	Georgia	13155
25.	Johnson	Georgia	13167
26.	Lanier	Georgia	13173
27.	Macon	Georgia	13193
28.	Marion	Georgia	13197
29.	McIntosh	Georgia	13191
30.	Pike	Georgia	13231
31.	Quitman	Georgia	13239
32.	Randolph	Georgia	13243
33.	Schley	Georgia	13249
34.	Stewart	Georgia	13259
35.	Talbot	Georgia	13263
36.	Taliaferro	Georgia	13265
37.	Taylor	Georgia	13269
38.	Telfair	Georgia	13271

* Data supplied by the National Emergency Number Association (NENA). (December 4, 2001)

** Counties and Equivalent Entities of the United States, Its Possessions, and Associated Areas, FIPS (Federal Information Processing Standards) PUB 6-4, August 31, 1990.

39.	Warren	Georgia	13301
40.	Webster	Georgia	13307
41.	Wheeler	Georgia	13309
42.	Alexander	Illinois	17003
43.	Brown	Illinois	17009
44.	Calhoun	Illinois	17013
45.	Clay	Illinois	17025
46.	Edwards	Illinois	17047
47.	Fayette	Illinois	17051
48.	Greene	Illinois	17061
49.	Hamilton	Illinois	17065
50.	Hardin	Illinois	17069
51.	Henderson	Illinois	17071
52.	Iroquois	Illinois	17075
53.	Jefferson	Illinois	17081
54.	Jersey	Illinois	17083
55.	La Salle	Illinois	17099
56.	Menard	Illinois	17129
57.	Moultrie	Illinois	17139
58.	Pope	Illinois	17151
59.	Putnam	Illinois	17155
60.	Schuyler	Illinois	17169
61.	Shelby	Illinois	17173
62.	Stark	Illinois	17175
63.	Wayne	Illinois	17191
64.	Martin	Indiana	18101
65.	Parke	Indiana	18121
66.	Elk	Kansas	20049
67.	Wallace	Kansas	20199
68.	Cumberland	Kentucky	21057
69.	Gallatin	Kentucky	21077
70.	Lewis	Kentucky	21135
71.	Owsley	Kentucky	21189
72.	Pendleton	Kentucky	21191
73.	Robertson	Kentucky	21201
74.	Catahoula	Louisiana	22025
75.	La Salle	Louisiana	22059
76.	Red River	Louisiana	22081
77.	St. Helena	Louisiana	22091
78.	Tensas	Louisiana	22107
79.	Aroostook	Maine	23003
80.	Washington	Maine	23029
81.	Gogebic	Michigan	26053
82.	Keweenaw	Michigan	26083
83.	Ontonagon	Michigan	26131
84.	Schoolcraft	Michigan	26153
85.	Choctaw	Mississippi	28019
86.	Clay	Mississippi	28025
87.	Tallahatchie	Mississippi	28135
88.	Barry	Missouri	29009
89.	Bates	Missouri	29013

90.	Benton	Missouri	29015
91.	Bollinger	Missouri	29017
92.	Carroll	Missouri	29033
93.	Carter	Missouri	29035
94.	Chariton	Missouri	29041
95.	Clark	Missouri	29045
96.	Dade	Missouri	29057
97.	Douglas	Missouri	29067
98.	Hickory	Missouri	29085
99.	Iron	Missouri	29093
100.	Knox	Missouri	29103
101.	Lewis	Missouri	29111
102.	McDonald	Missouri	29119
103.	Oregon	Missouri	29149
104.	Osage	Missouri	29151
105.	Ozark	Missouri	29153
106.	Putnam	Missouri	29171
107.	Randolph	Missouri	29175
108.	Reynolds	Missouri	29179
109.	Ripley	Missouri	29181
110.	Schuyler	Missouri	29197
111.	Scotland	Missouri	29199
112.	Shannon	Missouri	29203
113.	St. Clair	Missouri	29185
114.	Vernon	Missouri	29217
115.	Washington	Missouri	29221
116.	Wayne	Missouri	29223
117.	Worth	Missouri	29227
118.	Logan	Nebraska	31113
119.	Nemaha	Nebraska	31127
120.	Pawnee	Nebraska	31133
121.	Perkins	Nebraska	31135
122.	Red Willow	Nebraska	31145
123.	Rock	Nebraska	31149
124.	Hamilton	New York	36041
125.	Schoharie	New York	36095
126.	Seneca	New York	36099
127.	Steuben	New York	36101
128.	Carroll	Ohio	39019
129.	Columbiana	Ohio	39029
130.	Harrison	Ohio	39067
131.	Meigs	Ohio	39105
132.	Monroe	Ohio	39111
133.	Noble	Ohio	39121
134.	Washington	Ohio	39167
135.	Cimarron	Oklahoma	40025
136.	Coal	Oklahoma	40029
137.	Cotton	Oklahoma	40033
138.	Dewey	Oklahoma	40043
139.	Grant	Oklahoma	40053
140.	Haskell	Oklahoma	40061

141.	Kingfisher	Oklahoma	40073
142.	McIntosh	Oklahoma	40091
143.	Murray	Oklahoma	40099
144.	Nowata	Oklahoma	40105
145.	Osage	Oklahoma	40113
146.	Roger Mills	Oklahoma	40129
147.	Wagoner	Oklahoma	40145
148.	Dewey	South Dakota	46041
149.	Gregory	South Dakota	46053
150.	Haakon	South Dakota	46055
151.	Harding	South Dakota	46063
152.	Jackson	South Dakota	46071
153.	Jones	South Dakota	46075
154.	Todd	South Dakota	46121
155.	Ziebach	South Dakota	46137
156.	Grainger	Tennessee	47057
157.	Lake	Tennessee	47095
158.	Alleghany	Virginia	51005
159.	Appomattox	Virginia	51011
160.	Bland	Virginia	51021
161.	Lee	Virginia	51105
162.	Grant	West Virginia	54023
163.	Randolph	West Virginia	54083
164.	Ritchie	West Virginia	54085
165.	Bayfield	Wisconsin	55007
166.	Forest	Wisconsin	55041
167.	Iron	Wisconsin	55051
168.	Menominee	Wisconsin	55078

II. COUNTIES IN THE PROCESS OF IMPLEMENTING 911 SERVICE

	COUNTY NAME	STATE NAME	FIPS CODE
1.	Pike	Alabama	01109
2.	Bond	Illinois	17005
3.	Adair	Missouri	29001
4.	Atchison	Missouri	29005
5.	Lewis	New York	36049
6.	Vinton	Ohio	39163
7.	Saluda	South Carolina	45081
8.	Dickenson	Virginia	51051
9.	Hardy	West Virginia	54031

III. COUNTIES WHERE THERE IS PARTIAL IMPLEMENTATION OF BASIC SERVICE

	COUNTY NAME	STATE NAME	FIPS CODE
1.	Adair	Oklahoma	40001
2.	Blaine	Oklahoma	40011
3.	Garvin	Oklahoma	40049
4.	Okfuskee	Oklahoma	40107
5.	Washita	Oklahoma	40149
6.	Woodward	Oklahoma	40153

SEPARATE STATEMENT OF COMMISSIONER KATHLEEN ABERNATHY

In re: Implementation of 911 Act, The Use of N11 Codes and Other Abbreviated Dialing Arrangements, WT Docket No. 00-110, CC Docket No. 92-105, Memorandum Opinion and Order on Reconsideration and Fifth Report and Order.

Today's order is a significant step towards establishing 911 as the universal emergency number throughout the United States. As Congress directed us through the Wireless Communications and Public Safety Act of 1999, the Commission has crafted a set of flexible rules to govern the transition process for those areas of the country that do not currently utilize 911. This process is, by necessity, a cooperative one. The Commission must work with state governments, the public safety community, carriers, and the public to ensure a seamless and efficient transition. The Commission is committed to serving a key role as a convenor for the key constituencies, a clearinghouse for information and technical expertise, and, if necessary as an enforcer of our rules. However, we cannot do this alone. Carriers must ensure that 911 calls are routed properly and always result in contact with public safety personnel. Perhaps most importantly, this process relies on state and local governments to designate or create public safety answering points or other emergency authorities that will field new 911 calls. It is my strong preference that carriers be told by state and local governments where to route 911 emergency calls. This is by no means a simple process. Many areas of the country have multiple police, fire and rescue jurisdictions; many wireless cell sites cover multiple municipalities, counties, or even states. Moreover, many of the areas that do not yet have 911 services are sparsely populated with public safety services located tens of miles away. These are all daunting challenges, but as a result of meeting them the American people will soon enjoy the safety and security of knowing that anytime of day, anywhere across the USA, help is only three digits away.