

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Public Safety and Homeland Security Bureau)	PS Docket No. 10-255
Seeks Comment on the Legal and Statutory)	
Framework for next Generation 9-1-1 Services)	PS Docket No. 11-153
Pursuant to the Next Generation 9-1-1)	
Advancement Act of 2012)	PS Docket No. 12-333

**Comments of the
National Association of State 911 Administrators (NASNA)**

The mission of the National Association of State 911 Administrators (NASNA) is to promote information sharing among those states with programs dedicated to implementing 911 emergency telephone systems; assist other states with resolving issues necessary to accomplish statewide implementation and maintenance; encourage the establishment of a coordination person within each state or province; identify and recommend minimum standards for 911 emergency telephone systems; identify and recommend appropriate legislation or rules concerning the administration of statewide 911 telephone system programs and serve as a knowledge resource for the membership of the Association.

The comments submitted below are based upon a consensus of our membership and their experience with the provisioning of 911 services.

I. Legal and Regulatory Framework for the Development of NG9-1-1 Services and the Transition from Legacy 9-1-1 Networks to NG9-1-1

Section 6509(1) of the Act states that the report shall include recommendations regarding a “legal and regulatory framework for the development of Next Generation 9–1–1 services and the transition from legacy 9–1–1 to Next Generation 9–1–1 networks.”¹ The legacy 9-1-1 system is comprised of approximately 6,800 Public Safety Answering Points (PSAPs); myriad governance structures that vary across state, county, and local jurisdictions; a number of service providers; and funding mechanisms that differ across jurisdictional boundaries. In light of the variation in state-level approaches to legacy 9-1-1, we seek comment on the ability of states to effectively coordinate the transition to NG9-1-1, and whether the Commission should recommend that Congress create incentives or requirements for such coordination at the state or regional level. More specifically, we seek comment on the following:

¹ *Id.* § 6509(1).

1. *Should Congress create requirements or incentives for states to establish NG9-1-1 oversight bodies at the state or regional level?*

Yes, to a combination of both incentives and requirements for states. For effective NG911 deployments, Congress can assist by establishing a combination of incentives and requirements coupled with the ample time for states to build ESInets, or in the absence of state programs, allow for regions within states to develop ESInets. The requirements should be grounded in objective standards for capacity, security, scalability, and redundancy. Hard, but reasonable deadlines for meeting these requirements should be set and incentives created for states that meet them. Likewise, there should be disincentives created for states that fail to act in a manner contrary to movement towards NG911.

Federal policies should encourage state-level development, oversight, coordination, and implementation of ESInets and NG911.

2. *Should each state or region designate an organization to be responsible for planning, coordinating, and implementing the NG9-1-1 system in that particular state or region?*

Yes, the states should have a governance structure that provides for clear and direct oversight of NG911 and operational and technical standards. These governance structures should be capable of developing strategic plans, setting operational standards, providing support to local implementation, and incentivizing system participation (such as establishing the attainment of standards as a prerequisite of funding).

While NASNA does not endorse a “one size fits all” approach in states’ implementation of NG911, there are common elements that should be considered when planning NG911 systems. These include; a responsible use of public resources, an effective approach to NG911 communications, technical standards, measurable performance goals, and timelines attached to meeting those goals.

3. *Should state or regional oversight bodies have control over the funding of NG9-1-1 services?*

Any control of funding by a state’s NG911 governance structure should be commensurate with its level of authority.

Federal funding that may be made available should be tied to reaching objective interoperability goals set for NG911 implementation. The Department of Homeland Security (DHS) model, where the state receives, distributes, and oversees the local and regional use of DHS funds, has proven to be successful one. A similar model could be employed for NG911 funding.

Additionally, NASNA posits that funding mechanisms put in place by states’ statutes should be technology agnostic and that all technologies accessing the 911 system equitably share the cost of the system.

4. *Would the formation of state or regional oversight bodies better ensure adherence to a standardized architecture that facilitates greater levels of functionality?*

Yes. NASNA believes that when the FCC looks at the states' progress toward NG911 it will find a correlation between NG911 progress and centralized coordination. While the greatest majority of 911 call taking, dispatching, and emergency responses are performed at the local level, there are varied levels of service and capabilities that exist throughout these systems. There should be a minimum level of core competency (service levels?) established and then additional higher level competencies (service levels?) identified that are optional. Competencies (service levels?) should be set by a central governance structure that has the authority to set standards for NG911 service levels. Each state's 911 entity should have the authority to analyze, share, and disseminate aggregate data from PSAPs and service providers, and to collect and aggregate 911 response related data for the purposes of improving and maintaining the quality of 911 service.

5. *Would state or regional oversight bodies enable PSAPs to procure equipment and software at lower costs?*

Past practice has shown that volume purchasing can lower costs, *if* the governance model employed allows for making such purchases.

The FCC is seeking comment on what role the federal government should play in NG9-1-1 oversight, and whether the Commission should recommend that Congress enact legislation defining the federal government's role. More specifically, we seek comment on the following:

6. *To the extent that the federal government is involved in NG9-1-1 oversight, what role should specific federal agencies play, including the Commission, NHTSA, NTIA, and DHS?*

The more streamlined the role that federal agencies can play, the more effective they can be. While each of the federal agencies that are involved in NG911 (i.e. FCC, NHTSA, NTIA, DHS), these primary agencies should have clearly defined coordinating responsibilities that states' 911 programs can work with and serve as central points of contact for the federal agencies.

7. *Should a single federal entity be established or designated to oversee the transition to 7. NG9-1-1, and/or to ensure compliance with required standards, coordination, implementation, and policies?*

Rather than the creation of a new federal entity, with proper coordination, the existing structure can leverage the operational needs to implement NG911. The Implementation and Coordination Office established in NHTSA has proven to be an invaluable resource to the NASNA membership in its coordination role and it should be continued.

8. *Should a specific federal agency or agencies be responsible for establishing national policy to ensure consistent regulation of NG9-1-1?*

No, for the reasons cited in comment # 7 above, there already existing resources without creating an additional structure within the federal government.

9. *Should a specific federal agency or agencies be responsible for enabling and initiating the development and deployment of shared state-wide Emergency Services IP Networks (ESInets) and related cooperative working agreements between federal, state, tribal, and local agencies?*²

No, for the reasons cited above in comments #7 and #8.

10. *What functions and responsibilities should be performed at the federal, regional, state, Tribal, and local levels in the implementation, transition to, and ongoing operation of NG9-1-1 in areas including networks, NG9-1-1 functional elements, databases, system operation, and PSAP operation?*

This may vary from state to state as it depends on the governance models employed by the individual states. Each state varies in its 911 systems. To go through each of the involved stakeholders' list of needs would be exhaustive. The processes of administrative inquiry, comment, rulemaking, and possibly legislation should determine the role of government in NG911 and its deployment. The states should have a preemptive role and work with other stakeholder groups within the states to support the statutory and regulatory changes needed to implement NG911.

Additionally, the federal role should be focused on the overarching and interstate standards set for communications carriers and provider (regardless of technology) for products, equipment, and network build-out and deployment to achieve NG911. It can also play a key role in the states' ability to ensure the collections of 911 funding from communications providers as well as ensure the states' proper use of the 911 funds collected.

11. *What statutory or regulatory changes, if any, would be necessary for the Commission, other federal agencies, states, Tribes, or localities to facilitate and oversee NG9-1-1?*

Because the deployment and delivery of 911 has long been the purview of local government (i.e. cities, counties, and states), existing statues vary significantly from state to state in their oversight of 911. Each state will need to evaluate its statutory and regulatory structure to make necessary changes. However, federally created mechanisms can be created to incentivize states to this process evaluation and change process.

In the past, the tying of federal funding to states that meet certain standards to match national policy has been an effective tool for incentivizing changes in states' public policy. (The receipt of highway funding for states with statutes meeting blood alcohol content [BAC] amounts for impaired and intoxicated driving levels as an example.)

² ESInets are defined in NENA Functional and Interface Standards for Next Generation 9-1-1 Version 1.0 (i3).

Congress and the FCC may consider options similar to this when setting policy for the distribution of funds under the Next Generation 9-1-1 Advancement Act.

12. What is the feasibility of deploying a national NG9-1-1 infrastructure that would allow PSAPs to connect to a nationwide E911, prior to the deployment of statewide or regional E911s? Should Congress take action to promote the development of such a national NG9-1-1 infrastructure?

a. What is the feasibility of deploying a national NG9-1-1 infrastructure that would allow PSAPs to connect to a nationwide E911, prior to the deployment of statewide or regional E911s?

The migration to NG911 will require the assimilation of many existing landline systems that are locally initiated and managed. Federal resources should ensure connectivity between states and facilitate the complementary nature between the future national public safety broadband system (FirstNet) and NG911. These two networks, which will form one system, should be addressed as reciprocal, yet distinct public safety networks.

An example of facilitating this complementary system of networks could include the integration of existing Statewide Communications Interoperability Plans (SCIPs) into states' NG911 implementation plans. By providing grants tied to states meeting nationally set standards, seamless and secure connectivity between the states can be achieved.

Furthermore, providing assistance to jurisdictions that have antiquated 911 systems or limited functionality (such as not providing Phase II wireless 911) in meeting raised minimal levels of 911 call processing will bring the nation to a single base level of 911 service that does not exist today.

b. Should Congress take action to promote the development of such a national NG9-1-1 infrastructure?

Congress should promote the consistent planning process across the country. Tie incentive funding to states' meeting objective nationwide metrics and established goals. Also, by employing disincentives, such as tying separate, but related sources of federal funding to meeting NG911 criteria, the states become broader stakeholders in public safety interoperability.

Support can also be provided through federal policies that assist states with their day to day challenges of implementation, such as enforcement provisions for 911 fee collection.

Section 6506 of the Act extends liability protection to providers of NG9-1-1 service by stating that "a provider or user of Next Generation 9-1-1 services...shall have immunity and protection from liability under Federal and State law [to the extent provided under section 4 of the Wireless Communications and Public Safety Act of 1999]," with respect to "the release of subscriber information related to emergency

calls or emergency services,” “the use or provision of 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services,” and “other matters related to 9-1-1 services E9-1-1 services, or Next Generation 9-1-1 services.”³ In the Commission’s NG9-1-1 proceeding, many commenters noted (prior to the promulgation of Section 6509) that the deployment of NG9-1-1 services may raise liability concerns for both PSAPs and commercial providers and that liability protections may therefore need to be modified in an NG9-1-1 environment.⁴ In addition, some commenters have argued that federal law requiring parity in state law protection does not adequately protect CMRS providers in implementing NG9-1-1 because the scope of underlying liability protection is dictated by state law and varies from state to state.⁵ Accordingly, we seek comment on whether the Commission should recommend that Congress take further steps to provide for liability protection to promote the development of NG9-1-1, including but not limited to the issues below.

13. Does existing law provide the Commission with authority to provide adequate liability protection to NG9-1-1 providers, including carriers, vendors, and PSAPs?

The U.S. Attorney General should review existing and potential federal statutes and make determinations as to the federal scope of authority of liability at the federal level. Each state should do the same within its individual liability statutes.

14. Should Congress take steps to further encourage or require states to extend liability protection to 9-1-1 and NG9-1-1 services?

Congress should encourage states to provide liability protections to 911 and NG911 services within the scope of each individual state’s public policies and statutory constructs. As a resource for the states Congress could identify one of the federal 911 partner agencies to assist in the development of model liability language that the states can consider when implementing liability provisions for NG911.

³ NG 9-1-1 Advancement Act § 6506.

⁴ See, e.g., following comments to the Notice of Inquiry (NOI) in the Commission’s NG9-1-1 proceeding: TCS NOI Comments at 17; PlantCML NOI Comments at 3; Sprint Nextel NOI Comments at 8; L3 NOI Comments at 25; VON Coalition NOI Comments at 5; NENA NOI Comments at 31; CTIA NOI Comments at 10-11; AT&T NOI Comments at 25-26; L.R. Kimball NOI Comments at 20-21; Motorola NOI Comments at 5-6; Bandwidth.com NOI Reply Comments at 7 (commenters asserting that the lack of express liability protection for NG9-1-1 has hindered the deployment of NG9-1-1 networks). See also Sprint Nextel NOI Comments at 8; CTIA NOI Comments at 10-11; AT&T NOI Comments at 25-26; Motorola NOI Comments at 5-6 (commenters contending that liability protection is essential to extend 9-1-1 requirements to include text). See Framework for Next Generation 911 Deployment, PS Docket No. 10-255, Notice of Inquiry, 25 FCC Rcd 17869 (2010). See generally NENA, *Next Generation 9-1-1 Transition Policy Implementation Handbook, A Guide for Identifying and Implementing Policies to Enable NG9-1-1*, at 21-23 (Mar. 2010), available at http://c.ymcdn.com/sites/www.nena.org/resource/resmgr/ngpp/ng911_transition_policy_impl.pdf?hhSearchTerms=Transition+and+Handbook (last visited Oct. 26, 2012).

⁵ See, e.g., Motorola NOI Comments at 6; AT&T Comments to *NG9-1-1 NPRM* at 22-23.

15. Should Congress provide direct liability protection for NG9-1-1 services at the federal level?

Yes, Congress should provide liability protections where applicable, but not circumvent states' liability protections. Congress should also provide "gap fill" protections to cover NG911 services in the absence of state protections.

16. Should Congress authorize or require 9-1-1 fee contributions by all service providers and not just those providing network access?

Yes. While 911 fee structures may vary from state to state, they should be technology agnostic. If a service is capable of 911 system access for the purposes of initiating a request for public safety assistance, it should fall within the scope of states' fee contribution system.

17. For example, when a VoIP application or other IP-enabled service is operating over a commercial wireless network, should the VoIP or IP-enabled service provider contribute to the 9-1-1 fund?

Yes, policies should be technology agnostic but the mechanism of collection and distribution may vary from state to state and federal policies should recognize these varied funding systems. A single national "one size fits all" approach to funding could have catastrophic financial consequences in our country, especially in those states where PSAPs depend on locally generated 911 fee sources that are technology agnostic.

II. Legal Mechanisms for Ensuring Efficient and Accurate Transmission of 9-1-1 Caller Information to Emergency Response Agencies

Section 6509(2) of the Act provides that the report shall also make recommendations regarding "[l]egal mechanisms to ensure efficient and accurate transmission of 9-1-1 caller information to emergency response agencies."⁶ We seek comment on whether the Commission should recommend that Congress authorize or implement any specific legal mechanisms to ensure the transmission of efficient and accurate 9-1-1 caller information to PSAPs. More specifically, we seek comment on the following:

18. Should Congress enact legislation to require or incentivize the development of technologies that provide more accurate and efficient transmission of 9-1-1 caller information in an NG9-1-1 environment?

Yes. Setting standards for best practices should be authorized by Congress and enforced by the individual states.

19. Should Congress authorize the Commission or another federal agency to measure accuracy and efficiency of 9-1-1 caller information in an NG9-1-1 environment?

Yes, the Commission should have the authority to ensure that caller data is being provided to PSAPs and should be enforced by the states.

⁶ Next Generation 9-1-1 Advancement Act § 6509(2).

At this juncture NASNA believes that the term “9-1-1 caller” should be revisited to encompass the changing nature of 911 and recognize that in the future “callers” will take the form of emergency activations because of the myriad of avenues that 911 can take.

20. Are there other mechanisms that would improve data collection in an NG9-1-1 environment? For example, should the Commission collect additional data about NG9-1-1 capabilities in its PSAP database that the Public Safety and Homeland Security Bureau maintains?

Yes, NASNA recommends that the Commission should institute a similar reporting mechanism already in place with the New and Emerging Technologies 911 (NET 911) Improvement Act to ensure that the same level of data collection exists for NG9-1-1 as already does for 911 and enhanced 911 services.

III. Recommendations for Removing Jurisdictional Barriers and Inconsistent Legacy Regulations

Section 6509(3) of the Act states that the report shall include recommendations regarding “removing jurisdictional barriers and inconsistent legacy regulations.”⁷ We seek comment on whether the Commission should recommend that Congress act to encourage or require the removal of such jurisdictional barriers and inconsistent regulations. More specifically we seek comment on the issues below:

A. Removal of State Regulatory Roadblocks to NG9-1-1 Services Development

Section 6509(3)(A) of the Act seeks recommendations on “proposals that would require States to remove regulatory roadblocks to Next Generation 9–1–1 services development, while recognizing existing State authority over 9–1–1 services.”⁸ We seek comment on existing state laws and regulations that could hinder the development of NG9-1-1 services, and whether the Commission should recommend that Congress act to require states to remove such laws and regulations. More specifically, we seek comment on the following:

21. In the legacy 9-1-1 system, incumbent local exchange carriers are typically the primary 9-1-1 System Service Provider (SSPs). However, in an NG9-1-1 environment, there are likely to be multiple SSPs offering a variety of service capabilities and options. Are there existing state approval processes and certification requirements for SSPs that are outdated or overly burdensome?

Yes, and these vary from state to state. Changes within each state’s structure should be addressed within those states’ regulatory and statutory systems.

⁷ *Id.* § 6509(3).

⁸ *Id.* § 6509(3)(A).

22. *Should Congress enact legislation to encourage or require states to update or streamline their SSP certification processes to facilitate certification of NG9-1-1 SSPs?*

States should have incentive to move from regulated utilities to IP-based systems. The systems should allow for states to have service level agreements (SLAs), rather than certification. This can be done by the direct provision of NG911 ESInet services or by contracting for those services or by a hybrid of those two options.

23. *Should Congress facilitate the authorization by states of public safety entities to act directly as NG9-1-1 SSPs?*

Yes, states and public safety should be authorized to act as NG911 SSPs.

24. *Are disparate cost recovery mechanisms for originating 9-1-1 traffic and varying interconnection requirements impeding the deployment of NG9-1-1 services?*

Cost recovery mechanisms should be equitable, however, given the disparate levels of regulation at the state and federal levels (i.e. wireless is traditionally the purview of the FCC and landline is traditionally the purview of state regulatory commissions), a solution that empowers states to implement, collect, and deliver cost recovery to the providers would assist in the forward progress of NG911 services.

25. *Do incumbent 9-1-1 SSPs have sufficient incentives to upgrade their technology to support NG9-1-1 absent regulatory change at the state level?*

No, the current states' model in the regulated environment serves to promulgate the legacy system as the duplicative cost of moving to an NG911 system while maintaining the ongoing cost of legacy networks is cost prohibitive. The current system makes it difficult for states to assign responsibility for the funding of a new network, thus, the system in place is self-perpetuating in both its regulatory and funding aspects.

26. *Should Congress encourage or require existing state regulations, laws, or tariffs to be modified to ensure that 9-1-1 governing authorities or new 9-1-1 SSPs are entitled to receive relevant routing, location, and other related 9-1-1 information at reasonable rates and terms?*

NASNA posits that it is unsure how Congress would require 911 SSPs to provide information to governing authorities at certain rates and terms when this has been historically driven by fair market values, unless there is a requirement that *all* providers supply it at *no* cost.

B. *Elimination of Outdated Federal 9-1-1 Regulations*

27. *Are there existing Commission 9-1-1 regulations that may inhibit the development and deployment of NG9-1-1 services? Should the Commission modify or eliminate such regulations on its own authority?*

Yes. The Commission should identify those provisions and follow its established process of Notice of Inquiry to resolve those obstacles.

28. Are there any regulations of other Federal agencies that may inhibit the deployment of NG9-1-1 services? Should the Commission recommend that these agencies modify or eliminate such regulations?

There is a possibility that such regulations exist, however NASNA believes that it does not have the knowledge base to take a position for other federal agencies and declines to comment.

29. Is Congressional action needed to modify or eliminate outdated federal regulation? Are there specific actions that the Commission should recommend Congress take?

For the same reason cited in comment #28 above, NASNA declines to comment.

C. Preemption of Inconsistent State Regulations

Section 6509(3)(C) of the Act seeks recommendations on “preempting inconsistent State regulations.”⁹ We seek comment on the degree to which existing federal law preempts or authorizes the Commission to preempt state regulations that could inhibit the development and deployment of NG9-1-1. We also seek comment on whether the Commission should recommend that Congress enact legislation to expand the scope of any federal preemption, including but not limited to the following:

30. Should Congress enact legislation that expressly empowers the Commission or any other federal agency to preempt state regulations that could inhibit the development and deployment of NG9-1-1? If so, how should the scope of the Commission’s or other agency’s preemptive authority be defined?

Before preemption is considered, the Commission and Congress should seek to employ a system of incentives to encourage states to develop, implement, and maintain NG911 systems within the structure of the individual states’ statutory and governance environment.

31. Should Congress enact legislation that expressly preempts state regulation that could inhibit the development and deployment of NG9-1-1? If so, how should the scope of statutory preemption be defined?

Incorporating elements of comments # 24 and 30 above, preemption should not be the first option to move the states to NG911 and a mechanism to merge two disparate regulatory systems and services should be sought. The FCC has traditionally had oversight of the airwaves and the states have had oversight of the landline-based systems that include 911. And both have been effective. The two levels of government

⁹ *Id.* § 6509(3)(C).

will need to work in partnership with the other to successfully establish and execute the migration to NG911.

On behalf of NASNA

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