



Office of the General Counsel

B-274091

August 19, 1996

The Honorable Larry Pressler
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems (Wireless E911 Rules)

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission, entitled "Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems (Wireless E911 Rules)" (FCC-96-264). We received the rule on August 1, 1996. It was published in the Federal Register as a final rule on August 2, 1996. 61 Fed. Reg. 40348.

In adopting this Report and Order, the Commission promulgates requirements for basic wireless 911 services and establishes a framework for improving wireless 911 services. The Commission adopts these rules pursuant to sections 301 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 301 and 303(r).

For basic wireless 911 services, the Order requires covered carriers to transmit to public safety personnel all 911 calls originating from mobile handsets that transmit a code identification number without any form of validation. If the public safety organization decides to receive all calls from these carriers, the Order requires

carriers to route all such calls even if they do not come from units that generate any code identification. The Order also requires that, within 1 year, covered carriers must be capable of transmitting wireless 911 calls made by hearing-or speech-impaired individuals through the use of TTY or similar devices.

The Order also requires covered carriers to offer certain 911 enhancements in the next 18 months, including the ability to relay a caller's phone number and the location of the base station or cell site receiving a 911 call. Within the next 5 years, the Order requires carriers to provide a very specific geographical location under some circumstances.

At the same time the Commission is issuing this Final Report and Order, it is also issuing a Further Notice of Proposed Rulemaking (61 Fed. Reg. 40374) to develop additional means of ensuring that improvements made possible by technological advances are incorporated into enhanced 911 systems in the future.

Enclosed is our assessment of the Federal Communications Commission's compliance with the procedural steps required by sections 801(a)(1)(B)(i) through (iv) of title 5 with respect to this Final Report and Order. Our review indicates that the Federal Communications Commission complied with the applicable requirements.

If you have any questions about this report, please contact Kathleen E. Wannisky, Associate General Counsel for Operations, at (202) 512-5207. The official responsible for GAO evaluation work relating to the Federal Communications Commission is John Anderson, Director of Transportation and Telecommunications Issues. Mr. Anderson can be reached at (202) 512-2834.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY

THE FEDERAL COMMUNICATIONS COMMISSION

ENTITLED

"REVISION OF THE COMMISSION'S RULES TO ENSURE COMPATIBILITY WITH
ENHANCED 911 EMERGENCY CALLING SYSTEMS (WIRELESS E911 RULES)
(FCC-96-264)

(i) Cost-benefit analysis

The Commission stated in its submission to us that it was not required to prepare and did not prepare a cost-benefit analysis of this Report and Order.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607 and 609

Section 603: Initial Regulatory Flexibility Analysis

The Commission initiated this proceeding with a Notice of Proposed Rulemaking that addressed issues raised by the provision of 911 and enhanced 911 services through certain technologies. (Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, 9 FCC Rcd 6170 (1994)). In that Notice, the Commission prepared and published an Initial Regulatory Flexibility Analysis and invited written public comments on the proposed rulemaking, including comments on the Initial Regulatory Flexibility Analysis.

The analysis included in the proposed rulemaking provides the information required by sections 603(b)(1) and (2). It describes the reasons for the proposed action and its objectives and legal basis. The information required by sections 603(b)(3) and (4) concerning the estimate of the classes of small entities subject to the Report and Order and the projected reporting, recordkeeping and other compliance requirements of the proposed rulemaking is also included.

In accordance with section 603(b)(5), the Commission stated its belief that the proposed Report and Order does not duplicate, overlap or conflict with any other relevant federal rules. Finally, in considering any significant alternatives minimizing the impact on small entities, the Commission asks for comments on whether the rule should be applied in situations with very limited PBX configurations in compliance with section 603(c).

Section 604: Final Regulatory Flexibility Analysis

The Supplementary Information published in the Federal Register includes the full text of the Commission's Final Regulatory Flexibility Analysis. 61 Fed. Reg. 40348. The analysis includes information required by section 604, including a description of the need for and purpose of this Report and Order. The Commission's analysis describes how this Report and Order will make 911 and enhanced 911 services for users of wireless telephones more widely available and much more effective.

Although no comments were submitted in direct response to the Initial Regulatory Flexibility Analysis, the Commission noted that a number of the general comments on the Notice might have an effect on small entities, particularly on site-specific Specialized Mobile Radio (SMR) licensees and on rural cellular providers. The Commission describes how, in response to these comments, it attempted to minimize the burdens on small entities by:

- limiting the regulations to mass market two-way voice services,
- providing for waivers for small rural carriers,
- accepting the recommendation of trade associations and public safety organizations to extend the implementation period for some provisions over a 5-year period, and
- offsetting the burden on small entities by requiring that a cost recovery mechanism will be in place before requiring implementation of the requirements.

The analysis further describes the small entities covered by the Report and Order, addressing separately cellular licensees, broadband personal communication service licensees, and specialized mobile radio licensees. The analysis also discusses the projected reporting, recordkeeping and other compliance requirements of the Report and Order.

Finally, in compliance with section 604(a)(5), the analysis describes the significant alternatives considered and rejected, including universal applicability to commercial mobile voice services, automatic exclusion of all rural cellular carriers, and a Commission-developed set of standards for implementation. The analysis discusses why the Commission rejected these alternatives and instead selected those adopted in the Final Report and Order.

Section 609: Participation by small entities

The Commission offered the opportunity to comment on the proposed Report and Order to any interested parties, including small entities. In its Notice of Proposed Rulemaking, the Commission specifically stated that the proposed regulation would affect a number of entities both large and small. The Commission published the Notice of Proposed Rulemaking in both the Federal Register and the FCC Record, publications that should be easily obtained by small as well as large entities in the telecommunications industry. The Commission's submission to GAO did not highlight any other actions taken to encourage small entity participation in the rulemaking process.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to Title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under Acts and Executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Commission promulgated this rule under the notice and comment procedures of 5 U.S.C. § 553. A Notice of Proposed Rulemaking was released on October 19, 1994 (9 FCC Rcd 6170). A summary of the notice was published in the Federal Register (59 Fed. Reg. 54878). In response to the Notice, over 110 parties filed comments and reply comments regarding the wireless 911 issues. The commenters included wireless service providers, public safety organizations, equipment manufacturers and others. Appendix A to the Report and Order lists the commenters. The Final Report and Order provides a detailed discussion of comments and Commission reactions to them.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Report and Order does not impose an information collection, although the Commission expects that future rulemaking in this area will impose such a requirement. When the Commission released this Report and Order on July 26, 1996, it included a Further Notice of Proposed Rulemaking. That Further Notice does anticipate an information collection and invites comments from the general public and the Office of Management and Budget. See 61 Fed. Reg. 40374.

Statutory authorization for the rule

Authorization for this rule is contained in sections 301 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 301 and 303(r).

The Commission did not identify any other statutes or executive orders imposing requirements relevant to this Report and Order.