

not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements.

Dated: October 31, 2002.

Alexis Strauss,

Acting Regional Administrator, Region 9.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(108) and (c)(109) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(108) Revisions to the Arizona State Implementation Plan for the Motor Vehicle Inspection and Maintenance Programs, submitted on July 6, 2001.

(i) Incorporation by reference.

(A) Arizona Revised Statutes.

(1) Section 49–551 as amended in Section 27 of Arizona Senate Bill 1427, 43rd Legislature, 2nd Regular Session (1998), approved by the Governor on May 29, 1998.

(2) Section 49–544 as amended in Section 15 of Arizona Senate Bill 1007, 43rd Legislature, 4th Special Session (1998), approved by the Governor on May 20, 1998.

(3) Section 49–541 as amended in Section 44 of Arizona House Bill 2189, 44th Legislature, 1st Regular Session (1999), approved by the Governor on May 18, 1999.

(4) Section 49–542.01 repealed in Section 3 and Section 49–545 as amended in Section 5 of Arizona House Bill 2104, 44th Legislature, 2nd Regular session (2000), approved by the Governor on April 28, 2000.

(5) Section 49–542.05 as added in Section 23 of Arizona Senate Bill 1004, 44th Legislature, 7th Special Session

(2000), approved by the Governor on December 14, 2000.

(B) Arizona Administrative Code.

(1) Title 18, Chapter 2, Article 10 (except for AAC R 18–2–1020) “Motor Vehicles; Inspection and Maintenance” as adopted on December 31, 2000.

(109) Revisions to the Arizona State Implementation Plan for the Motor Vehicle Inspection and Maintenance Programs, submitted on April 10, 2002 by the Governor’s designee.

(i) Incorporation by reference.

(A) Arizona Revised Statutes.

(1) Section 49–542 as amended in Section 9, Section 49–543 as amended in Section 11, and Section 49–541.01 repealed in Section 29 of Arizona House Bill 2538, 45th Legislature, 1st Regular Session (2001), approved by the Governor on May 7, 2001.

(B) Arizona Administrative Code.

(1) Amendments to AAC R 18–2–1006 and 18–2–1019, and the repeal of AAC R 18–2–1014 and R 18–2–1015 effective January 1, 2002.

3. Section 52.123 is amended by adding paragraph (k) to read as follows:

§ 52.123 Approval status.

* * * * *

(k) The Administrator approves the revised Enhanced Vehicle Inspection and Maintenance Program for the Maricopa County carbon monoxide and ozone nonattainment area submitted by the Arizona Department of Environmental Quality on July 6, 2001 and April 10, 2002 as meeting the requirements of Clean Air Act sections 182(c)(3) and 187(a)(6) and the requirements for high enhanced inspection and maintenance programs contained in 40 CFR part 51, subpart S.

[FR Doc. 03–1234 Filed 1–21–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; FCC 02–318]

Compatibility With Enhanced 911 Emergency Calling Systems; PSAP E911 Service Readiness

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of the Commission’s October 2001 decision which addressed a petition from the city of Richardson, Texas by adopting rules

that clarify what constitutes a valid Public Safety Answering Point (PSAP) to trigger a wireless carrier’s obligation to provide E911 service to the PSAP within six months. The document modifies the Commission’s rules to provide additional clarification regarding PSAP readiness. The action is taken to respond to the petitions for reconsideration and to promote rapid E911 implementation.

DATES: Effective February 21, 2003, except for §§ 20.18(j)(4) and (5), which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Commission is seeking emergency approval from the Office of Management and Budget for these collections. Public comment on the information collections on these PRA burdens are due March 24, 2003. The Commission will publish a document in the **Federal Register** announcing the effective date of these sections.

FOR FURTHER INFORMATION CONTACT: Jennifer Salhus, Attorney, 202–418–1310. For further information concerning the information collection contained in this Fourth Memorandum Opinion and Order, contact Judith Boley Herman, Federal Communications Commission, 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Order on Reconsideration (Recon) in CC Docket No. 94–102; FCC 02–318, adopted November 21, 2002, and released November 26, 2002. The complete text of the Recon and the Supplemental Final Regulatory Flexibility Analysis is available on the Commission’s Internet site, at <http://www.fcc.gov>, and is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC. The text may also be purchased from the Commission’s copy contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B4202, Washington, DC 20554 (telephone 202–863–2893).

Synopsis of the Order on Reconsideration

1. The Recon responds to two petitions for reconsideration of the Commission’s Order (60 FR 55618, November 2, 2001) in this proceeding. The Order, in further response to a petition filed by the city of Richardson, Texas, adopted rules clarifying what constitutes a valid PSAP request to trigger a wireless carrier’s obligation to provide E911 service to that PSAP within six months. The Recon modifies

the Commission's rules to provide additional clarification as to PSAP readiness.

2. The Recon first adopts procedural guidelines for requesting documentation predictive of a PSAP's readiness to receive and utilize the E911 service it has requested. Specifically, the Recon provides that, where a wireless carrier requests such documentation from a PSAP within 15 days of receiving the PSAP's request for E911 service, the PSAP must respond within 15 days or the carrier's six-month implementation period will be tolled until such documentation is provided. (See paragraphs 9 through 12 of the full text of the Recon.)

3. Second, the Recon clarifies that the readiness showing is for the purpose of commencing the wireless carrier's six-month implementation obligation. The Recon also establishes a procedure whereby wireless carriers that have completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness may have their compliance obligation temporarily tolled, if the PSAP is not ready to receive the information at the end of the six-month period and the carrier files a certification to that effect with the Commission. (See paragraphs 14 through 21 of the full text of the Recon.)

7. Finally, the Recon clarifies that nothing in the Commission's rules precludes wireless carriers and PSAPs from mutually agreeing to an implementation schedule different from that prescribed in the Commission's rules. (See paragraph 29 of the full text of the Recon.)

Paperwork Reduction Act of 1995 Analysis

8. This Recon has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain new reporting and information collections. Implementation of these new reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act. The Commission is seeking this approval on an emergency basis and will publish a notice of effective date in the **Federal Register** when OMB approval for these PRA burdens is received. The Commission is seeking public comment on these PRA burdens. Public and agency comments are due March 24, 2003. Comments should address:

- Whether the collection of information is necessary for the proper performance of the functions 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 or other forms of information technology.

9. A copy of any comments on the information collections contained in this Recon should be submitted to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 Twelfth Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Kim A. Johnson, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Docket Library, Room 10236, New Executive Office Building (NEOB), 725 17th Street, NW., Washington, DC 20503 or via the Internet at

Kim.A.Johnson@omb.eop.gov.

OMB Approval Number: XXXX.

Title: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems: City of Richardson, Texas, Recon Order.

Form No. N.A.

Type of Review: New information collection.

Respondents: Business or other for profit.

Number of Respondents: 1,358.

Estimated Time Per Response: 2–40 hours.

Total Annual Burden: 13,960 hours.

Cost to Respondents: 0.

Needs and Uses: The information and coordination burdens are needed to ensure the fairness of the Commission's E911 rules and to facilitate speedy E911 implementation.

Supplemental Final Regulatory Flexibility Analysis (SFRFA)

10. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared a Supplemental Regulatory Flexibility Analysis (SFRFA) of the estimated significant economic impact on small entities of the policies and rules adopted in the Recon. The analysis may be found in Appendix C of the full text of the Recon. This is a summary of the full SFRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the Recon, including the SFRFA to the Chief Counsel for Advocacy of the Small Business Administration.

A. Need for, and Objectives of, the Recon Order

11. In response to petitions for reconsideration, the Commission

amends its rules to clarify what constitutes a valid Public Safety Answering Point (PSAP) request to trigger a wireless carrier's obligation to provide enhanced 911 (E911) service to the PSAP within six months. Specifically, the Recon adopts procedural guidelines for requesting documentation predictive of a PSAP's readiness to receive and utilize the E911 service it has requested, by specifying that where a wireless carrier requests such documentation from a PSAP within 15 days of receiving the PSAP's request for E911 service, the PSAP must respond within 15 days or the carrier's six-month implementation period will be tolled until such documentation is provided. The Recon also clarifies that the PSAP readiness showing is for the purpose of commencing the wireless carrier's six-month implementation obligation, and establishes a procedure whereby wireless carriers that have completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness may have their compliance obligation temporarily tolled, if the PSAP is not ready to receive the information at the end of the six-month period and the carrier files a certification to that effect with the Commission. Finally, the Recon clarifies that nothing in the Commission's rules precludes wireless carriers and PSAPs from mutually agreeing to an implementation schedule different from that prescribed by the Commission's rules.

12. The actions adopted in the Recon are intended to promote communication between wireless carriers, local exchange carriers (LECs) and PSAPs and to provide further clarity regarding their respective obligations in implementing wireless E911. Wireless E911 implementation is very situation-specific and can vary significantly from jurisdiction to jurisdiction and from carrier to carrier, depending on a number of factors. The clarifications adopted in the Recon are also intended to facilitate the implementation process by encouraging parties to communicate with each other early in the E911 implementation process, and to maintain a constructive, on-going dialog throughout the implementation process.

B. Summary of Significant Issues Raised by the Public in Response to the FRFA

13. The Commission received two petitions for reconsideration of its decision in the Order. One petitioner, Cingular Wireless LLC (Cingular) raises several procedural arguments against the validity of the decision adopted in the Order, based on the requirements of the Administrative Procedure Act. In

support, several small carriers filed comments also challenging the decision on a procedural basis, arguing that the decision contravenes the provisions of the RFA because it does not take account of, and attempt to reduce, the disproportionate burdens placed on small and rural carriers. These smaller carriers maintain that, in order to minimize the danger of unnecessary economic outlay on small carriers, the Commission should impose an actual-readiness requirement on PSAPs operating in areas where rural, small and mid-sized carriers do not have a large customer base to absorb their E911 implementation costs and are thus more vulnerable to delays in implementation caused by a PSAP's inability to receive and utilize the E911 data supplied by the carrier. The Commission is aware of the concerns of small and mid-sized rural carriers and discussed these concerns in the FRFA. However, as the Commission has iterated throughout this proceeding, any failure in E911 communications, regardless of whether the carrier is small or large, or whether the carrier has a large customer base or small, can result in tragedy. Nonetheless, the Commission has tried wherever possible to ease the regulatory burden in this proceeding on small entities. The Commission's phased-in approach to E911 implementation is an example of this desire to accommodate the needs of small entities where it does not compromise our commitment to the goals of this proceeding.

14. The FRFA addresses the issue of whether to adopt an actual-readiness requirement on PSAPs and finds that the readiness showing adopted in the Order "will in fact reduce the vulnerability of the smaller carriers, as they will be working along with the PSAPs to ensure implementation of E911 service on a timely basis, and will better be able to plan their progression and allocation of resources during the implementation process * * *." The FRFA concludes that, "Considering the potential burdens placed on all small entities, we find that the institution of objective criteria by rule amendment will benefit all PSAPs and carriers, including small entities, by more clearly defining E911 readiness, thus reducing the potential for misunderstanding between parties, and by reducing instances of delay in E911 implementation. In turn, this will reduce the likelihood that any PSAP or carrier, including all small entities, will have to expend its limited capital resources prematurely and/or improvidently."

15. The Recon takes several steps to mitigate the economic risk to smaller

carriers. First, as discussed in paragraphs 9 through 12 of the full text, the Recon responds to carrier comment that indicates the present rule does not specify time limits for responding to a carrier's request for PSAP readiness documentation, by establishing that where a wireless carrier requests readiness documentation in writing within 15 days of receiving the PSAP's request for E911 service, the PSAP will have 15 days to provide such documentation. The Commission believes that these 15-day timeframes will both reduce a carrier's ability to use a documentation request as a delaying tactic, and minimize unnecessary carrier expenditures in those situations where the PSAP is unable to demonstrate that it will be ready to receive and utilize the requested E911 information by the end of the six-month period allotted for carrier compliance. The Recon also acknowledges, as discussed in paragraph 14, that the current rules do not provide for situations where a PSAP has made the upfront readiness showing necessary to trigger Phase II implementation, but turns out to be incapable of receiving Phase II information at the end of the six-month implementation period. To address such situations, the Recon Order modified the Commission's rules in several respects. These modifications are set out in detail in paragraphs 15 through 21 of the Recon Order.

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

16. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.

17. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is

independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations.

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

19. 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." According to this standard, a small entity is one with no more than 1,500 employees. To determine which of the affected entities in the affected services fit into the SBA definition of small business, the Commission will refer to Table 5.3 in *Trends in Telephone Service (Trends)* a report published annually by the Commission's Wireline Competition Bureau.

20. We have included small incumbent local exchange carriers in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." 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. The Commission has 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.

Local Exchange Carriers. According to the most recent *Trends* data, 1,329 incumbent carriers reported that they were engaged in the provision of local exchange services. *Trends* indicates that of these entities, 1,024 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.

Competitive Access Providers and Competitive Local Exchange Carriers (CAPs and CLECs). *Trends* indicates that 532 CAPs and CLECs, 134 local resellers, and 55 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services. The Commission does not have data specifying the number of these carriers that are not independently owned and operated. However, *Trends* states that a total of 595 of these entities employ 1,500 individuals, thus qualifying as small entities.

Wireless Telephone Including Cellular, Personal Communications Service (PCS) and SMR Telephony Carriers. There are 858 entities in this category as estimated in *Trends*, and 291 such licensees in combination with their affiliates have 1,500 or fewer employees, and thus qualify as small businesses using the NAICS guide as small businesses.

Special Mobile Radio (SMR) Dispatch. *Trends* estimates 289 entities in this category and all 289 licensees, in combination with their affiliates, have 1,500 or fewer employees, and thus qualify as small entities using the NAICS guide.

Other Mobile Service Providers. *Trends* estimates that there are 32 providers of other mobile services, and again using the NAICS standard, all 32 providers of other mobile services utilize with their affiliates 1,500 or fewer employees, and thus may be considered small entities.

Toll Service Providers. *Trends* calculates that there are 932 toll service providers, and that 832 toll service providers with their affiliates have 1,500 or fewer employees and thus qualify as small entities as defined by NAICS.

Offshore Radiotelephone Service. 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 SFRFA, that all of the 55 licensees are small entities, as that term is defined by NAICS.

Public Safety Answering Points. Neither the Commission nor the SBA has developed a definition of small entities applicable to PSAPs. In order to give a numerical quantification of the number of PSAPs that are small entities affected by the rule modifications, it appears there are approximately 5,000 primary PSAPs nationwide. For purposes of this SFRFA, we assume that all of the PSAPs are small entities, and may be affected by the rule amendments.

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

21. As indicated in paragraphs 15 through 21 of the Recon, in order to toll the six-month implementation period, a wireless carrier must file a certification with the Commission that it has completed all necessary steps towards E911 implementation that are not dependent on PSAP readiness and that the PSAP is not ready to receive the information at the end of the six month period. Additionally, the Commission clarifies that nothing in our rules precludes wireless carriers and PSAPs from mutually agreeing to an implementation schedule different from that prescribed by the Commission's rules.

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

22. The Commission is limited in this proceeding as to minimizing the burden on small entities. The proceeding is intended to provide all Americans with the most reliable, responsive emergency services that are technologically possible. The critical nature of this goal demands that all entities involved, regardless of size, bear the same responsibility for complying with requirements adopted to expedite reaching this goal. A delay in response caused by a small entity could result in the same fatal consequences as a delay caused by a large entity.

23. The Commission, upon review of the petitions for reconsideration of the Order, could have elected to simply deny the petitions and leave the rules as is, or it could have modified the rules to intensify the demonstration requirements on PSAPs. Instead the Commission makes certain clarifications to the rules to dispel some of the existing confusion as to PSAP readiness and the decision adopted in the Order, and modifies the rules to accommodate certain of the carrier's continuing concerns, while refraining from imposing additional burdens on PSAPs,

most of whom are either small or mid-sized entities.

24. First, the Recon, in paragraphs 9 through 12 clarifies the rules along the lines suggested by two wireless carriers by establishing the parallel 15-day timeframe for carrier requests and PSAP responses in certain instances where the PSAP does not provide readiness documentation simultaneous with its request for E911 service. The Commission takes this action to promote early communication between wireless carriers and PSAPs, to expedite the E911 implementation process, to reduce a carrier's ability to use a documentation request as a delaying tactic, while minimizing unnecessary carrier expenditures where the PSAP is unable to demonstrate that it will be E911 capable by the end of the six-month period allotted for carrier compliance. This modification thus benefits both small and mid-sized wireless carriers and PSAPs and strengthens the Commission's efforts to encourage necessary cooperation between carriers and PSAPs in achieving truly responsive E911 implementation.

25. Second, to address situations in which a PSAP has made the upfront readiness showing but turns out to be incapable of receiving E911 Phase II information at the end of the six-month implementation period, the Recon amends 47 CFR 20.18(j) in several ways. (See paragraphs 14 through 21 of the Recon.) The Recon clarifies that the readiness showing is for the purpose of commencing the wireless carrier's six-month implementation obligation. The Recon also establishes a certification procedure whereby wireless carriers that have completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness may have their six-month compliance obligation temporarily tolled. These procedures, set out in paragraphs 15 through 21 of the Recon, minimize the financial risk to wireless carriers while providing PSAPs with an opportunity to respond and set up several other restrictions in the certification procedure to avoid abuse of the process by all parties involved.

26. Several wireless carrier commenters recommend that the Commission amend its rules to require that the PSAP obtain the local exchange carrier's (LEC's) written commitment to complete the required Automated Location Information (ALI) database upgrades within the six-month period. As discussed in paragraph 23 of the Recon, the Commission does not adopt such a regulation. In paragraph 24, the Commission also declines to adopt a

second, alternative proposal that would require PSAPs to acquire copies of an LEC's schedule of ALI database upgrade, because PSAPs are not in the best position to furnish such documentation. In paragraph 25 of the Recon, the Commission directs the Wireless Telecommunications Bureau to collect additional information periodically from LECs regarding the status of their efforts in connection with wireless E911 deployment to PSAPs and to consumers.

27. *Report to Congress:* The Commission will send a copy of this Recon, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of this Recon, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

28. The Petition for Reconsideration filed by Sprint is granted to the extent provided in the full text of the Recon and that the Petition is otherwise denied.

29. The Petition for Reconsideration filed by Cingular is denied.

30. Part 20 of the Commission's rules is amended as indicated in the rule changes section of this summary, effective February 21, 2003, except for §§ 20.18(j)(4) and (5), which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Commission is seeking emergency approval from the Office of Management and Budget for these collections. Public comment on the information collections on these PRA burdens are due March 24, 2003. The Commission will publish a document in the **Federal Register** announcing the effective date for these sections.

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

List of Subjects in 47 CFR Part 20

Communications common carrier, Communications equipment, Radio, Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications

Commission amends 47 CFR part 20 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 20.18(j) is revised to read as follows:

§ 20.18 911 Service.

* * * * *

(j) *Conditions for enhanced 911 services.* (1) *Generally.* The requirements set forth in paragraphs (d) through (h) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and the Public Safety Answering Point is capable of receiving and utilizing the data elements associated with the service and a mechanism for recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place.

(2) *Commencement of six-month period.* (i) Except as provided in paragraph (ii) of this section, for purposes of commencing the six-month period for carrier implementation specified in paragraphs (d), (f) and (g) of this section, a PSAP will be deemed capable of receiving and utilizing the data elements associated with the service requested, if it can demonstrate that it has:

(A) Ordered the necessary equipment and has commitments from suppliers to have it installed and operational within such six-month period; and

(B) Made a timely request to the appropriate local exchange carrier for the necessary trunking, upgrades, and other facilities.

(ii) For purposes of commencing the six-month period for carrier implementation specified in paragraphs (f) and (g) of this section, a PSAP that is Phase I-capable using a Non-Call Path Associated Signaling (NCAS) technology will be deemed capable of receiving and utilizing the data elements associated with Phase II service if it can demonstrate that it has made a timely request to the appropriate local exchange carrier for the ALI database upgrade necessary to receive the Phase II information.

(3) *Tolling of six-month period.* Where a wireless carrier has served a written request for documentation on the PSAP within 15 days of receiving the PSAP's request for Phase I or Phase II enhanced 911 service, and the PSAP fails to

respond to such request within 15 days of such service, the six-month period for carrier implementation specified in paragraphs (d), (f), and (g) of this section will be tolled until the PSAP provides the carrier with such documentation.

(4) *Carrier certification regarding PSAP readiness issues.* At the end of the six-month period for carrier implementation specified in paragraphs (d), (f) and (g) of this section, a wireless carrier that believes that the PSAP is not capable of receiving and utilizing the data elements associated with the service requested may file a certification with the Commission. Upon filing and service of such certification, the carrier may suspend further implementation efforts, except as provided in paragraph (j)(4)(x) of this section.

(i) As a prerequisite to filing such certification, no later than 21 days prior to such filing, the wireless carrier must notify the affected PSAP, in writing, of its intent to file such certification. Any response that the carrier receives from the PSAP must be included with the carrier's certification filing.

(ii) The certification process shall be subject to the procedural requirements set forth in sections 1.45 and 1.47 of this chapter.

(iii) The certification must be in the form of an affidavit signed by a director or officer of the carrier, documenting:

(A) The basis for the carrier's determination that the PSAP will not be ready;

(B) Each of the specific steps the carrier has taken to provide the E911 service requested;

(C) The reasons why further implementation efforts cannot be made until the PSAP becomes capable of receiving and utilizing the data elements associated with the E911 service requested; and

(D) The specific steps that remain to be completed by the wireless carrier and, to the extent known, the PSAP or other parties before the carrier can provide the E911 service requested.

(iv) All affidavits must be correct. The carrier must ensure that its affidavit is correct, and the certifying director or officer has the duty to personally determine that the affidavit is correct.

(v) A carrier may not engage in a practice of filing inadequate or incomplete certifications for the purpose of delaying its responsibilities.

(vi) To be eligible to make a certification, the wireless carrier must have completed all necessary steps toward E911 implementation that are not dependent on PSAP readiness.

(vii) A copy of the certification must be served on the PSAP in accordance with § 1.47 of this chapter. The PSAP

may challenge in writing the accuracy of the carrier's certification and shall serve a copy of such challenge on the carrier. See §§ 1.45 and 1.47 and §§ 1.720 through 1.736 of this chapter.

(viii) If a wireless carrier's certification is facially inadequate, the six-month implementation period specified in paragraphs (d), (f) and (g) of this section will not be suspended as provided for in paragraph (j)(4) of this section.

(ix) If a wireless carrier's certification is inaccurate, the wireless carrier will be liable for noncompliance as if the certification had not been filed.

(x) A carrier that files a certification under paragraph (j)(4) of this section shall have 90 days from receipt of the PSAP's written notice that it is capable of receiving and utilizing the data elements associated with the service requested to provide such service in accordance with the requirements of paragraphs (d) through (h) of this section.

(5) *Modification of deadlines by agreement.* Nothing in this section shall prevent Public Safety Answering Points and carriers from establishing, by mutual consent, deadlines different from those imposed for carrier and PSAP compliance in paragraphs (d), (f), and (g)(2) of this section.

* * * * *

[FR Doc. 03-1326 Filed 1-21-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Address Change for Submission of Reports

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We are updating the address for the submission of reports on specimens of endangered species taken in defense of self or others, or in the course of official duty by employees of Federal or State land management or conservation agencies.

DATES: This rule is effective on January 22, 2003.

FOR FURTHER INFORMATION CONTACT: Richard McDonald, Chief, Branch of Investigations, Office of Law Enforcement, U.S. Fish and Wildlife Service, telephone (703) 358-1949, fax (703) 358-1947.

SUPPLEMENTARY INFORMATION:

Background

Regulations contained in title 50 of the Code of Federal Regulations, Part 17.21, provide for the take of endangered species in defense of self or others, or in the course of official duty, by employees of Federal or State land management or conservation agencies (40 FR 44412). These regulations state that when take of endangered species occurs under any of the above circumstances, a report must be submitted to our Office of Law Enforcement within five days. The address for the submission of these reports has changed since the publication of these regulations on September 26, 1975. This rule provides the current address for the submission of these reports.

Required Determinations

We have reviewed this rule under the following statutes and Executive Orders that govern the rulemaking process: Executive Order 12866 (Regulatory Planning and Review); Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*); Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)); Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*); Executive Order 12630 (Takings); Executive Order 13132 (Federalism); Executive Order 12988 (Civil Justice Reform); Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*); National Environmental Policy Act; Executive Order 13175 (Tribal Consultation) and 512 DM 2 (Government-to-Government Relationship With Tribes); and Executive Order 13211 (Energy Supply, Distribution, or Use). We have determined that this rule does not trigger any of the procedural requirements of these Executive Orders or statutes since this rule modifies only the address for the submission of reports on the take of endangered species under certain circumstances.

We have determined that the public notice and comment provisions of the Administrative Procedure Act (APA) do not apply to this rule because the rule is only dealing with matters of agency organization, procedure, or practice (5 U.S.C. 553(b)(3)(A)).

Under the APA, our normal practice is to publish rules with a 30-day delay in effective date. But in this case, we are using the "good cause" exemption under 5 U.S.C. 553 (d)(3) to make this rule effective upon publication because it modifies only the address for the submission of reports on the take of endangered species under certain circumstances.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.21, revise paragraph (c)(4) to read as follows:

§ 17.21 Prohibitions.

* * * * *

(c) * * *

(4) Any taking under paragraphs (c)(2) and (3) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4401 North Fairfax Drive, LE-3000, Arlington, VA 22203, within five days. The specimen may only be retained, disposed of, or salvaged under directions from the Office of Law Enforcement.

* * * * *

Dated: December 16, 2002.

Craig Manson,

Assistant Secretary—Fish and Wildlife and Parks.

[FR Doc. 03-1414 Filed 1-21-03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020409080-2174-05; I.D. 011003B]

RIN 0648-AP78

Fisheries of the Northeastern United States; Magnuson-Stevens Fishery Conservation and Management Act Provisions; Northeast Multispecies Fishery

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

ACTION: Notice of continuation of regulations.