

winning bids. The word "cash" is defined as "money or its equivalent;" or "ready money" and "proceeds" is defined as "the money obtained from a commercial or fund-raising venture: yield."

3. In addition to the language of the statute, the purpose underlying the revenue requirement of CSEA supports a determination that "total cash proceeds" is based on winning bids net of bidding credits. Given that Congress's purpose was to provide a mechanism for making sufficient funds available to relocating Federal agencies, it is reasonable to assume that Congress did not intend the Commission, in determining whether the "total cash proceeds" requirement has been met, to count those portions of winning bids for which the bidder would receive credit and not have to pay. Accordingly, the Commission does not read CSEA to equate the amount of the gross winning bids with the total cash proceeds of the auction.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-14841 Filed 7-26-05; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 9

[WC Docket No. 04-36; FCC 05-116]

#### E911 Requirements for IP-Enabled Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document announces that the information collection requirements adopted in the IP-Enabled Services First Report and Order (Order) were approved in OMB No. 3060-1085 and will become effective on July 29, 2005, in 47 CFR 9.5.

**DATES:** The rule in 47 CFR 9.5, published at 70 FR 37273, June 29, 2005 is effective July 29, 2005.

**Compliance Date:** Compliance with the customer notification requirements in § 9.5(e) is required by July 29, 2005. The compliance letter required by § 9.5(f) must be submitted to the Commission no later than November 28, 2005. Compliance with the requirements in § 9.5(b) through (d) is not required until November 28, 2005.

**FOR FURTHER INFORMATION CONTACT:** Christi Shewman, Attorney-Advisor,

Competition Policy Division, Wireline Competition Bureau, at (202) 418-1686.

For additional information concerning the Paperwork Reduction Act information collection requirements, contact Judith B. Herman at (202) 418-0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** A summary of the IP-Enabled Services First Report and Order was published in the **Federal Register** on June 29, 2005, 70 FR 37273. The IP-Enabled Services First Report and Order adopted rules requiring providers of interconnected voice over Internet Protocol (VoIP) service—meaning VoIP service that allows a user generally to receive calls originating from and to terminate calls to the public switched telephone network—to supply enhanced 911 capabilities to all of their customers as a standard feature of the service, rather than as an optional enhancement. The summary stated that with the exception of rules requiring Office of Management and Budget (OMB) approval, the rules adopted in the IP-Enabled Services First Report and Order would become effective July 29, 2005. With regard to rules requiring OMB approval, the Commission stated that it would publish a document in the **Federal Register** announcing the effective date of these rules. The information collection requirements in § 9.5 have been approved by OMB. In a separate document published in this issue, the Commission has announced that OMB has approved the information collection requirements adopted in the IP-Enabled Services First Report and Order. With publication of the instant document in the **Federal Register**, all rules adopted in the IP-Enabled Services First Report and Order are effective July 29, 2005.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-14842 Filed 7-26-05; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 20

[WT Docket No. 01-309; FCC 05-122]

#### Hearing Aid-Compatible Telephones

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission grants in part and denies in part petitions for reconsideration of the

*Hearing Aid Compatibility Order*, which lifted the blanket exemption for digital wireless telephones under the Hearing Aid Compatibility Act of 1988 (HAC Act). The Commission's actions, as reflected in this document, further ensure that every American has access to the benefits of digital wireless telecommunications, including individuals with hearing disabilities.

**DATES:** Effective August 26, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Andra Cunningham,  
*Andra.Cunningham@fcc.gov*, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418-1630 or TTY (202) 418-7233.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's *Order on Reconsideration* FCC 05-122, adopted on June 9, 2005 and released on June 21, 2005. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

1. On August 14, 2003, the Commission released the *Hearing Aid Compatibility Order*, finding, among other things, that the statutory criteria to lift the exemption for wireless telephones had been met. Specifically, the Commission determined that continuation of Congress' exemption for wireless telephones would have an adverse effect on individuals with hearing disabilities, and that revoking the exemption was technologically feasible and in the public interest. The Commission further determined that compliance with hearing aid compatibility requirements "would not increase the costs of [wireless] phones to such an extent that they could not be successfully marketed."

2. Based upon these findings, the Commission established requirements for hearing aid compatibility of digital wireless phones. First, the Commission adopted the ANSI C63.19 performance levels as the applicable technical standard. Second, the Commission established specific, phased-in

deployment benchmarks for digital wireless handset manufacturers, wireless carriers and service providers offering digital wireless services. Third, the Commission implemented a framework for labeling and live, in-store consumer testing of digital wireless handsets, as well as an obligation to report on handset deployment progress. Fourth, the Commission adopted a *de minimis* exception, which relieves wireless carriers, service providers and handset manufacturers that offer two or fewer digital wireless handsets in the United States from the hearing aid compatibility compliance obligations. Finally, consistent with the requirements set forth in the HAC Act, the Commission expanded the scope of its rules for enforcing wireline hearing aid compatibility to permit subscribers to digital wireless services to file informal complaints in the event that handset manufacturers or wireless service providers fail to comply with the hearing aid compatibility rules.

3. The Commission received four petitions for reconsideration in response to the *Hearing Aid Compatibility Order*. The petitions sought reconsideration, clarification, or both, of the Commission's decisions to: (a) Adopt the ANSI C63.19 technical standard for hearing aid compatibility; (b) establish a preliminary deployment benchmark exclusive to Tier I wireless carriers; (c) establish a fifty percent handset deployment benchmark; (d) require labeling and live, in-store consumer testing of digital wireless handset models; (e) impose compliance reporting obligations; (f) institute deployment benchmarks for wireless carriers employing a TDMA air interface; (g) adopt a *de minimis* exception for digital wireless carriers, service providers and handset manufacturers; and (h) delegate authority to enforce hearing aid compatibility of wireless phones to the states.

4. The *Order on Reconsideration*, that is the subject of this document, grants in part and denies in part the petitions for reconsideration of the *Hearing Aid Compatibility Order*. In the *Order on Reconsideration*, the Commission takes the following actions:

(a) We affirm the *Hearing Aid Compatibility Order* as follows:

- The American National Standards Institute (ANSI) standard, ANSI C63.19, "American National Standard for Methods of Measurement of Compatibility between Wireless Communication Devices and Hearing Aids, ANSI C63.19-2001," is an appropriate established technical standard. We also affirm the

Commission's determination that ANSI C63.19 should not be transformed from a performance measurement standard to a build-to standard.

- We affirm the Commission's authority to establish the preliminary handset deployment benchmark specific to Tier I wireless carriers, and we modify the requirement in order to provide greater certainty while not adversely affecting hearing impaired individuals' access to compatible phones. Specifically, we modify § 20.19(c) of the Commission's rules on hearing aid compatible mobile handsets to require that, by September 16, 2005, each Tier I wireless carrier offering digital wireless services must make available to consumers, per air interface, four U3-rated handsets, or twenty-five percent of the total number of handsets it offers nationwide; and that, by September 16, 2006, each Tier I wireless carrier offering digital wireless services must make available to consumers, per air interface, five U3-rated handsets, or twenty-five percent of the total number of handsets it offers nationwide.

- We affirm the basis of the Commission's determination that, by February 18, 2008, fifty percent of all handsets offered by digital wireless carriers, service providers and handset manufacturers must meet the U3 hearing aid compatibility requirement for each air interface offered.

- We affirm the requirements established by the Commission for labeling and in-store consumer testing of digital wireless handsets. We also find that modifying the obligation to report on handset deployment progress, as suggested by some parties, would disserve our objective of having the information necessary to determine compliance with the hearing aid compatibility rules.

(b) We modify § 20.19(c) of the Commission's rules on hearing aid compatible mobile handsets in response to a petition from wireless carriers operating TDMA networks and overbuilding them to employ alternative air interfaces. These carriers will be considered compliant with the September 16, 2005, preliminary handset deployment benchmark if they: (1) Offer two hearing aid-compatible handset models to customers that receive service from the overbuilt (*i.e.*, non-TDMA) portion of the network, (2) are overbuilding (*i.e.*, replacing) their entire network, and (3) complete the overbuild by September 18, 2006.

(c) We clarify the *Hearing Aid Compatibility Order* with respect to the following points:

- The *de minimis* exception, which exempts from the hearing aid

compatibility requirements wireless carriers, service providers and handset manufacturers that offer two or fewer digital wireless handset models, applies on a per air interface basis, rather than across an entire product line.

- The Commission properly delegated authority to the states to enforce the rules governing the hearing aid compatibility of digital wireless handsets in cases where the states have adopted these rules and provide for enforcement. We clarify, however, that the Commission retains exclusive jurisdiction over the technical standards for hearing aid compatibility.

## II. Procedural Matters

### A. Paperwork Reduction Act Analysis

5. The document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13. Therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506 (c)(4).

### B. Final Regulatory Flexibility Certification

6. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Final Regulatory Flexibility Certification of the possible impact on small entities of the proposals in the *Order on Reconsideration*. Pursuant to the RFA, a Final Regulatory Flexibility Analysis (FRFA) was incorporated into the *Hearing Aid Compatibility Notice*.

7. The instant *Order on Reconsideration* modifies § 20.19(c) of the Commission's rules on hearing aid compatible mobile handsets in response to a petition from wireless carriers operating TDMA networks and overbuilding them to employ alternative air interfaces. These carriers will be considered compliant with the September 16, 2005, preliminary handset deployment benchmark if they: (1) Offer two hearing aid-compatible handset models to customers that receive service from the overbuilt (*i.e.*, non-TDMA) portion of the network, (2) are overbuilding (*i.e.*, replacing) their entire network, and (3) complete the overbuild by September 18, 2006.

8. Therefore, because we find the action taken in the instant *Order on Reconsideration* amounts to an exception and maintains the status quo for affected entities for a period of approximately one year, and that any

impact overall is positive, we certify that the action described will not result in a significant economic impact on a substantial number of small entities.

9. Further, we certify that our decision to modify the preliminary handset deployment benchmark for Tier I wireless carriers will not have a significant economic impact on a substantial number of small entities. Tier I wireless carriers are not small.

10. The Commission will send a copy of the *Order on Reconsideration*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, the *Order on Reconsideration* and this final certification will be sent to the Chief Counsel for Advocacy of the SBA.

### III. Ordering Clauses

11. Pursuant to the authority of sections 1, 4(i), 7, 10, 201, 202, 208, 214, 301, 302, 303, 308, 309(j), 310, and 710 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 301, 302, 303, 308, 309(j), 310, and 610, this *Order on Reconsideration* is adopted.

12. It is further ordered that the amendment of the Commission's rules, 47 CFR part 20, as specified in Appendix B of the *Order on Reconsideration* are effective, August 26, 2005.

13. It is further ordered that the petition for reconsideration of the *Hearing Aid Compatibility Order* filed by the Cellular Telecommunications and Internet Association is granted in part and denied in part to the extent set forth herein.

14. It is further ordered that the petition for reconsideration of the *Hearing Aid Compatibility Order* filed by Verizon Wireless is granted in part and denied in part to the extent set forth herein.

15. It is further ordered that the petition for reconsideration of the *Hearing Aid Compatibility Order* filed by Research in Motion Limited is granted to the extent set forth herein.

16. It is further ordered that the petition for reconsideration of the *Hearing Aid Compatibility Order* filed by the TDMA Carriers (Public Service Cellular Inc., Missouri RSA No. 7 Limited Partnership dba Mid Missouri Cellular; Minnesota Southern Wireless Company dba Hickory Tech, Northwest Missouri Cellular Limited Partnership, Illinois Valley Cellular RSA 2-1 Limited Partnership, Illinois Valley Cellular 2-II Limited Partnership and Illinois Valley RSA 2-III Limited Partnership) and Rural Telecommunications Group and is

granted in part to the extent set forth herein.

17. It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the *Order on Reconsideration* and the Final Regulatory Flexibility Certification to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 20

Communications common carriers.

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, 201, 251–254, 303, and 332 unless otherwise noted.

■ 2. Section 20.19 is amended by adding paragraph (b)(4) and by revising paragraphs (c)(2) and (c)(3)(i) to read as follows:

#### § 20.19 Hearing aid-compatible mobile handsets.

\* \* \* \* \*

(b) \* \* \*

(4) All factual questions of whether a wireless phone meets the technical standard of this subsection shall be referred for resolution to Chief, Office of Engineering and Technology, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

(c) \* \* \*

(2) And each provider of public mobile radio services must:

(i)(A) Include in its handset offerings at least two handset models per air interface that comply with § 20.19(b)(1) by September 16, 2005, and make available in each retail store owned or operated by the provider all of these handset models for consumers to test in the store; or

(B) In the event a provider of public mobile radio services is using a TDMA air interface and plans to overbuild (*i.e.*, replace) its network to employ alternative air interface(s), it must:

(1) Offer two handset models that comply with § 20.19(b)(1) by September 16, 2005, to its customers that receive service from the overbuilt (*i.e.*, non-TDMA) portion of its network, and make available in each retail store it

owns or operates all of these handset models for consumers to test in the store:

(2) Overbuild (*i.e.*, replace) its entire network to employ alternative air interface(s), and

(3) Complete the overbuild by September 18, 2006; and

(ii) Ensure that at least 50 percent of its handset models for each air interface comply with § 20.19(b)(1) by February 18, 2008, calculated based on the total number of unique digital wireless handset models the carrier offers nationwide.

(3) \* \* \*

(i)(A) Include in its handset offerings four digital wireless handset models per air interface or twenty-five percent of the total number of digital wireless handset models offered by the carrier nationwide (calculated based on the total number of unique digital wireless handset models the carrier offers nationwide) per air interface that comply with § 20.19(b)(1) by September 16, 2005, and make available in each retail store owned or operated by the carrier all of these handset models for consumers to test in the store; and

(B) Include in its handset offerings five digital wireless handset models per air interface or twenty-five percent of the total number of digital wireless handset models offered by the carrier nationwide (calculated based on the total number of unique digital wireless handset models the carrier offers nationwide) per air interface that comply with § 20.19(b)(1) by September 16, 2006, and make available in each retail store owned or operated by the carrier all of these handset models for consumers to test in the store; and

\* \* \* \* \*

[FR Doc. 05–14613 Filed 7–26–05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 214

[Docket No. FRA–2001–10426]

RIN 2130–AB63

#### Railroad Workplace Safety

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** On February 10, 2005, FRA published an interim final rule amending regulations on railroad workplace safety to clarify an