

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not

required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

#### List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**Authority:** Section 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: May 13, 2002.

**Donald S. Welsh,**  
*Regional Administrator, Region III.*

For the reasons set forth in the preamble, 40 CFR part 261 is amended as follows:

#### PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

#### Appendix IX of Part 261—[Amended]

2. Table 1 of appendix IX of part 261 is amended to add the following waste stream in alphabetical order by facility to read as follows:

#### Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

| Facility                     | Address                      | Waste description  |
|------------------------------|------------------------------|--|
| * ..                         | * .....                      | * .....  |
| Weirton Steel Corporation .. | Weirton, West Virginia ..... | <p>Wastewater treatment sludge (known as C&amp;E sludge) containing EPA Hazardous Waste Numbers F007 and F008, subsequent to its excavation from the East Lagoon and the Figure 8 tanks for the purpose of transportation and disposal in a Subtitle D landfill after May 23, 2002. This is a one-time exclusion for a maximum volume of 18,000 cubic yards of C&amp;E sludge.</p> <p>(1) Reopener language.</p> <p>(a) If Weirton discovers that any condition or assumption related to the characterization of the excluded waste which was used in the evaluation of the petition or that was predicted through modeling is not as reported in the petition, then Weirton must report any information relevant to that condition or assumption, in writing, to the Regional Administrator and the West Virginia Department of Environmental Protection within 10 calendar days of discovering that information.</p> <p>(b) Upon receiving information described in paragraph (a) of this section, regardless of its source, the Regional Administrator and the West Virginia Department of Environmental Protection will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health or the environment.</p> <p>(2) Notification Requirements.</p> <p>Weirton must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 calendar days prior to the commencement of such activities. Failure to provide such notification will be deemed to be a violation of this exclusion and may result in revocation of the decision and other enforcement action.</p> |
| *                            | *                            | *  |

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 20

[CC Docket No. 94-102; FCC 02-120]

#### Enhanced 911 Emergency Calling; Use of Non-Initialized Wireless Phones

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document addresses issues associated with the inability of a public safety answering point to call back an emergency caller for further critical information when that caller is dialing 911 using a non-service-initialized wireless telephone. The document requires that non-service-initialized handsets donated through carrier-sponsored programs and newly manufactured "911-only" phones be programmed with an identifying code, and that wireless carriers complete any network programming necessary to deliver this code. The document also requires that such phones be labeled to alert the user to the lack of call-back capability. Finally, the document

requires that public education programs be instituted to inform users of the limitations of non-initialized phones. The Commission takes these steps to alert all parties involved in a wireless 911 call originating from a non-initialized phone of the need for quick information as to the caller's exact location, thus increasing the likelihood that emergency services can be dispatched quickly to save lives.

**DATES:** Effective October 1, 2002. Public comment on the information collection is due July 22, 2002. Written comment by the Office of Management and Budget (OMB) must be submitted on or before September 20, 2002.

**ADDRESSES:** A copy of any comments on the information collection contained herein should be submitted to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Jeanette Thornton; at [JThornton@omb.eop.gov](mailto:JThornton@omb.eop.gov). OMB Desk Officer, 10236 NEOB, 725-17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Patrick Webre, Attorney, 202-418-1310. Details regarding the information collection contained in this Report and Order, are available from Judith Boley Herman, Federal Communications Commission, 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order (R&O) in CC Docket No. 94-102; FCC 02-120, adopted April 17, 2002, and released April 29, 2002. The complete text of this R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). Alternative formats (computer diskette, large print, audio cassettes, and Braille) are available to persons with disabilities by contacting Brian Millin at 202-418-7426, TTY 202-418-7365, or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

### Synopsis of the Report and Order

1. In this Report and Order (R&O) the Commission takes further steps to improve the ability of public safety answering points (PSAPs) to respond quickly and efficiently to calls for emergency assistance made from a wireless mobile telephone. Specifically, the Commission addresses the issues associated with the inability of a PSAP to call back a 911 caller who is disconnected prematurely when that caller is using a non-service initialized wireless telephone (non-initialized phone). Non-initialized phones are handsets that are not registered for service with any Commercial Mobile Radio Service carrier. Because carriers generally assign a dialable number to a handset only when a customer enters into a service contract, a non-initialized phone lacks a dialable number. This presents a problem for PSAPs when a caller using a non-initialized phone fails to provide critical information, such as

precise location information, before the call is terminated. Because the PSAP cannot call a non-initialized phone back to obtain further information from the user, delays in response time can occur. The Further Notice of Proposed Rulemaking (FNPRM) regarding this issue may be found at 66 FR 31878, June 13, 2001.

2. The Commission, in the R&O, first requires that non-service-initialized handsets donated through carrier-sponsored programs and newly manufactured "911-only" phones be programmed with the code 123-456-7890 as the "telephone number" to alert PSAPs that a 911 call is being made from a wireless phone that lacks call-back capability. The Commission also requires that carriers complete any network programming necessary to deliver the 123-456-7890 telephone number to PSAPs, and not reject this number when a 911 call from a non-initialized phone programmed with this number is placed. The coding and software requirements are described in paragraphs 26 through 37 of the R&O.

3. The Commission also requires that non-initialized phones be labeled to alert the user to the lack of call-back capability. This will place users on notice that in using non-initialized or "911-only" phones, the caller must be sure to disclose all relevant information which might help the PSAP locate and resolve the emergency situation before the call is disconnected. The labeling requirement is detailed in paragraphs 38 through 41 of the R&O.

4. Finally, the Commission requires that carriers donating non-initialized phones and manufacturers of "911-only" phones must institute education programs to further inform users of the limitations of non-initialized phones. As indicated in paragraph 42 of the R&O, part of their programs must include a notice, in addition to the label affixed to the phone, which is provided at the time the phone is transferred to the user. The notice should give a more detailed explanation of the limitations of non-initialized phones, including distinctions between service-initialized phones and non-initialized phones.

5. The Commission will implement these rules for manufacturers of 911-only phones, which are not capable of receiving incoming calls, through an equipment manufacturing requirement and our equipment authorization process. As of October 1, 2002, each mobile unit manufactured as a 911-only phone must have installed 123-456-7890 as its telephone number/mobile identification number as we have described herein. It must also have affixed a prominently displayed and

legible label which will alert the user that the phone can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible. The Commission finds that notice of more than five months constitutes sufficient time to enable manufacturers of 911-only phones to effect those design and production modifications that will be necessary to comply with our rule. The Commission will consider the incorporation of modifications to existing authorized equipment to be Class I permissive changes that do not require a filing with the Commission.

6. The Commission finds that the requirements adopted in the R&O strike a fair balance between the interests of PSAPs and consumers in minimizing response delays in emergency situations, and carriers and manufacturers who share the concerns of PSAPs and consumers, but also must consider financial and technological realities. The Commission, in paragraphs 8 through 24 of the R&O, considers a number of alternative solutions to the inability of PSAPs to return calls from non-initialized phones used to dial 911 in emergency situations, including technical solutions. Briefly, the Commission concludes that it cannot require carriers to develop and implement a call-back solution at this stage. The Commission indicates that this conclusion reflects both the dearth of information received regarding the scope of the problem generated by the use of non-initialized phones, as well as the dearth of record evidence regarding the viability and feasibility of possible technical solutions to provide call-back capability to non-initialized phones.

7. The Commission will continue to monitor this issue and any data forwarded regarding the number of non-initialized calls received by PSAPs which require call-back. The Commission will also monitor the technical aspects of the issue. If a technologically feasible approach for call-back capability to non-initialized phones becomes available, the Commission reserves the ability to impose a call-back requirement on carriers and manufacturers of 911-only phones.

### Paperwork Reduction Act

8. This R&O contains a revised information collection. As part of the Commission's continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget to take this opportunity to

comment on the information collections contained in this R&O, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due July 22, 2002.

Written comments from the Office of Management and Budget are due September 20, 2002. Comments should address: (a) Whether the new collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

*OMB Approval Number:* 3060-0987.

*Title:* Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems: Non-Initialized Phones.

*Form No.:* N.A.

*Type of Review:* Revision of a currently approved information collection.

*Respondents:* Business or other for profit, State, local government.

*Number of Respondents:* 3,137.

*Estimated Time Per Response:* 1 to 3 hours.

*Total Annual Burden:* 4,660 one-time burden hours.

*Cost to Respondents:* \$661,125.

*Needs and Uses:* The labeling requirement, education requirement, and software/coding requirement are all needed to make all parties involved in emergency calls originating from non-initialized and "911-only" phones aware that the calling party cannot be reached for further information if necessary. Thus, complete, critical location information must be supplied to the PSAP as quickly as possible in the originating call.

#### *Regulatory Flexibility Act*

9. This is a summary of the Final Regulatory Flexibility Act Analysis. The full text of the Analysis may be found in Appendix C of the full Report and Order.

10. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the FNPRM in CC Docket No. 94-102. The Commission sought written public comment on the proposals in the FNPRM, comments on the IRFA. The

present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### *A. Need for, and Objectives of, the Report and Order*

11. The actions adopted in the Report and Order (R&O) are intended to respond to the problems arising from the inability of non-initialized phones used for emergency purposes, to receive incoming calls from Public Safety Answering Points (PSAPs) seeking further information to assist in servicing E911 emergency callers. Non-initialized wireless phones are not registered with a carrier and thus lacks a dialable number. The important steps adopted in this R&O will alert the parties involved in a wireless 911 call of the need for quick information as to the caller's exact location, thus increasing the likelihood that emergency services can be dispatched quickly to save lives, while imposing limited burdens on wireless carriers and manufacturers of "911-only" telephones.

#### *B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

12. Although no comments were filed in direct response to the IRFA, comments were filed discussing issues of interest to small entities. PSAPs, wireless carriers, and equipment manufacturers generally agree that the ability of a PSAP to return a wireless 911 call if the originating call is dropped or the caller hangs up prematurely is important in ensuring a prompt emergency response. Public safety entities generally disagree with wireless carriers and equipment manufacturers regarding the availability and feasibility of a technical solution to the problem. Comments supporting the position that a technical solution to provide call-back capability to non-initialized phones is not feasible are discussed in paragraphs thirteen through twenty-four of the R&O. Individual proposals as to how to solve the call-back problem of non-initialized phones are further discussed elsewhere in this FRFA.

13. The Commission also received comment a proposed requirement that all carrier-sponsored wireless phone donation programs be service initialized so that call-back from the PSAPs will be available if needed. These comments, as well as the Commission's decision not to impose a mandate that all carrier-sponsored programs donate service-initialized phones, are discussed in paragraphs twenty-five through thirty-seven of the R&O.

#### *C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply*

14. 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. 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. Nationwide, there are 4.44 million small business firms, according to SBA reporting data. The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000. There are 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. In this regard, we note that there are approximately 5,000 primary PSAPs, most of whom qualify as small entities because they are either small organizations or small governmental jurisdictions.

15. Throughout this 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 both of these standards, 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 has consistently referred to Table 5.3 in Trends in Telephone Service (Trends), a report published annually by the Commission's Wireline Competition Bureau.

16. 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 data, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, or are not independently owned. However, 1,037 local exchange carriers report that, in combination with their affiliates, they have 1,500 or fewer employees, and would thus be considered small businesses as defined by NAICS. Also included in the number of local exchange carriers is the rural radio telephone service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the NAICS definition.

*Competitive Access Providers and Competitive Local Exchange Carriers (CAPs and CLECs).* Trends indicates that 349 CAPs and CLECs, 87 local resellers, and 60 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services. The Commission does not have data specifying the number of these carriers that are not independently owned and operated. However, 297 CAPs and CLECs, 86 local resellers, and 56 other local exchange

carriers report that, in combination with their affiliates, they have 1,500 or fewer employees, for a total of 439 such entities qualified as small entities.

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

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

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

*Toll Service Providers.* Trends calculates that there are 738 toll service providers, including 204 interexchange carriers, 21 operator service providers, 21 pre-paid calling card providers, 21 satellite service carriers, 454 toll resellers, and 17 carriers providing other toll services. Trends further estimates that 656 toll service providers with their affiliates have 1,500 or fewer employees and thus qualify as small entities as defined by NAICS. This figure includes 163 interexchange carriers, 20 operator service providers, 20 pre-paid calling card providers, 16 satellite service carriers, 423 toll resellers, and 15 carriers providing other toll services.

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

*Cellular Equipment Manufacturers.* The labeling requirement will affect manufacturers of 911-only phones. The

Commission does not know how many total cellular equipment manufacturers are in the current market. The 1994 County Business Patterns Report of the Bureau of the Census estimates that there are 920 companies that make communications subscriber equipment. This category includes not only cellular equipment manufacturers, but television and AM/FM radio manufacturers as well. Thus, the number of cellular equipment manufacturers is considerably lower than 920. Under SBA regulations, such a communications equipment manufacturer, which includes not only U.S. cellular equipment manufacturers but also firms that manufacture radio and television broadcasting and other communications equipment, must have a total of 750 or fewer employees in order to qualify as a small business concern. This R&O only affects manufacturers of 911-only phones. We are aware of only one manufacturer of 911-only phones, SecureAlert, which may be classified as a small entity. The Commission therefore estimates that our current action will affect fewer than ten small cellular equipment manufacturers.

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

17. As indicated in paragraphs two and twenty-six of the R&O, carriers participating in non-initialized phone donation programs and manufacturers of 911-only phones have to program each handset with 123-456-7890 as its telephone number/mobile identification number. This will involve a one-time modification. Software adjustments for wireless and wireline carriers to accept and disperse the number to PSAPs to identify the calls as coming from phones which cannot be called back will also involve a one-time modification. As also indicated, carriers participating in non-initialized phone donation programs and manufacturers of 911-only phones have to label each handset and institute education programs so that users of non-initialized phones will be apprised of their limitations. The labeling requirement is also a one-time modification. Education requirements for carriers and manufacturers are described in paragraph forty-two of the R&O.

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

18. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives, among

others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) any exemption from coverage of the rule, or any part thereof, for such small entities.

19. The issue of providing a solution to the non-initialized phone dilemma is of interest to small entities representing the public service community, and the wireless carrier and equipment manufacturing industries. As noted, most PSAPs are small entities and many carriers and equipment manufacturers are small entities. Public service entities, representing the views of PSAPs, on the one hand, are justifiably concerned with eliminating the possibility of delays in emergency response time due to their inability to contact callers using non-initialized phones to request vital location information. This incapability strains the already limited resources of PSAPs. Carriers and equipment manufacturers share PSAP concerns with impaired response time in emergency situations, but are also concerned with the practicalities of whether a technical solution is readily available at a cost that will not discourage the sale or the donation of non-initialized phones.

20. The Commission, in reaching a decision, carefully weighed the possible negative impact on all the small entities involved in the problem of non-initialized phone use in emergency situations, and found that a network-based technical solution to provide call-back capability to all non-initialized phones is not presently feasible. Instead, the Commission requires that non-initialized handsets donated through carrier-sponsored programs and newly manufactured 911-only phones be programmed with 123-456-7890 as their "telephone number," to alert a PSAP that the 911 call is originating from a wireless phone that lacks call-back capability. This will necessitate minor software modifications on the carriers' equipment. Additionally, the Commission requires that these phones be labeled to alert the user of the lack of call-back capability, and that public education programs be instituted to more fully inform non-initialized phone users of their limitations. The Commission finds that these requirements place limited, one-time burdens on carriers and manufacturers of 911-only phones while alerting all the parties involved in an emergency 911

call to the need for quick, precise and complete caller location information, thus reducing the likelihood that emergency response will be delayed and limited PSAP resources misused.

21. The Commission considered a number of alternative solutions to the predicament raised by non-initialized phones used in emergency situations, ranging from the possibility of developing and implementing a technical solution applicable to all non-initialized phones, to the use of labeling and public education programs. Paragraphs eight through twenty-four of the R&O discuss possible technical solutions proposed in the comments. The most widely-discussed technological possibilities involve using either temporary local directory numbers (TLDNs), which are currently used to deliver calls to roamers, or pseudo-mobile identification numbers (pseudo-MINs). In the former instance, it is suggested that TLDNs could be temporarily assigned, via a network mechanism, to non-initialized phones so that a PSAP would have a number to call back if prematurely disconnected. The latter instance would require the use of pseudo-MINs—a string of numbers and/or symbols, unique to each handset, which would be programmed into each non-initialized phone and used by the PSAP to effectuate a call-back. As stated in paragraphs eight through twelve of the R&O, the Commission concluded that the development and implementation of either proposed theory would likely require extensive changes to the networks and would be cost prohibitive. Mandating a call-back solution at this stage would be especially difficult to justify considering the dearth of information received regarding the scope of the problem of PSAPs' inability to contact callers using non-initialized phones for further location information. No data has been provided in this proceeding to show the volume of 911 traffic generated by non-initialized phones, nor the percentage of non-initialized calls which require a call-back to effect an adequate emergency response. Comments regarding the use of TLDNs and pseudo-MINs are summarized in paragraphs sixteen through nineteen of the R&O. A variation of the pseudo-MIN theory was proposed by Richard Levine of Beta Scientific Laboratory, Inc., and is considered in paragraph twenty of the R&O.

22. Paragraphs twenty-two through twenty-three of the R&O consider the possibility of providing call-back to non-initialized wireless phones which use GSM technology. Some commenters

argue against this option, maintaining that the elements of this solution have not been put together in a manner to support this capability, and that even if they were, the operator's network would be at risk of being deluged by calls from closed handsets receiving the same call-back page, which could effectively take down the entire network or a portion of the network. There would be no way for an operator to prevent calls from being placed by a handset, so, these commenters claim, there would be a serious risk of fraud and or terrorist activities.

23. Paragraphs twenty-five through thirty-three of the R&O discuss options regarding carrier-donated handsets. One alternative raised in the FNPRM is a requirement that all carrier-sponsored wireless phone donation programs be service initialized, so that call-back from the PSAPs will be available if needed. The Commission instead concluded that it would be more beneficial to needful individuals if carriers were allowed to continue to choose which program best serves their communities. While call-back may not be available in some instances, the Commission does not find that mandating service-initialization requirements on voluntary industry-led donation programs would be in the best interests of public safety. Many carriers are already participating in service-initialized donation programs, where a dialable telephone number is delivered to the PSAP and is available if a call-back is required. In addition, various service-initialized programs can be tailored by the carriers to provide users with the best available emergency access, while minimizing potential abuse of their programs.

24. In recognition of the concerns of public service entities, while the Commission does not impose a mandate that all carrier-sponsored programs donate only service-initialized phones, we do place requirements on those programs where non-initialized phones are donated. Additionally, in paragraph twenty-seven, the Commission adopts a labeling requirement for programs where a carrier donates service-initialized handsets, but blocks all call-backs to the phone. The label must notify the user that the called party will not be able to call the user back, and that in the event of an emergency, the user should convey the exact location of the emergency to the called party as soon as possible.

25. Finally, the Commission, as stated in paragraphs thirty-eight through forty-two of the R&O, mandates that labels be affixed to each non-initialized phone and that carriers and manufacturers institute public education programs to

alert users of non-initialized phones that call-back is unavailable and that the user should convey exact location information to the 911 operator as soon as possible.

26. *Report to Congress:* The Commission will send a copy of this R&O, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of this R&O, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

#### Ordering Clauses:

27. The Public Safety Entities' Petition is granted as provided herein and part 20 of the Commission's rules is amended accordingly.

28. The rules promulgated in this R&O shall become effective on October 1, 2002.

29. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this R&O, including the Final Regulatory Flexibility 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 is amended by revising paragraph (d)(2) and by adding paragraph (l) to read as follows:

#### § 20.18 911 Service.

\* \* \* \* \*

(d) \* \* \*

(2) When the directory number of the handset used to originate a 911 call is not available to the serving carrier, such carrier's obligations under the paragraph (d)(1) of this section extend only to delivering 911 calls and available call party information, including that prescribed in paragraph (l) of this section, to the designated Public Safety Answering Point.

**Note to paragraph (d):** With respect to 911 calls accessing their systems through the use of TTYs, licensees subject to this section must comply with the requirements in paragraphs (d)(1) and (d)(2) of this section, as to calls made using a digital wireless system, as of October 1, 1998.

\* \* \* \* \*

(l) *Non-service-initialized handsets.*

(1) Licensees subject to this section that donate a non-service-initialized handset for purposes of providing access to 911 services are required to:

(i) Program 123–456–7890 as the telephone number/mobile identification number into each handset;

(ii) Affix to each handset a label which is designed to withstand the length of service expected for a non-service-initialized phone, and which notifies the user that the handset can

only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(iii) Institute a public education program to provide the users of such handsets with information regarding the limitations of non-service-initialized handsets.

(2) Manufacturers of 911-only handsets that are manufactured on or after October 1, 2002, are required to:

(i) Program each handset with 123–456–7890 as its telephone number/mobile identification number;

(ii) Affix to each handset a label which is designed to withstand the length of service expected for a non-service-initialized phone, and which notifies the user that the handset can only be used to dial 911, that the 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible; and

(iii) Institute a public education program to provide the users of such handsets with information regarding the limitations of 911-only handsets.

(3) *Definitions.* The following definitions apply for purposes of this paragraph.

(i) *Non-service-initialized handset.* A handset for which there is no valid service contract with a provider of the services enumerated in paragraph (a) of this section.

(ii) *911-only handset.* A non-service-initialized handset that is manufactured with the capability of dialing 911 only and that cannot receive incoming calls.

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