

6 dBi are used, both the maximum conducted output power and the peak power spectral density shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi.

(3) For the band 5.725–5.825 GHz, the maximum conducted output power over the frequency band of operation shall not exceed the lesser of 1 W or 17 dBm + 10 log B, where B is the 26-dB emission bandwidth in MHz. In addition, the peak power spectral density shall not exceed 17 dBm in any 1-MHz band. If transmitting antennas of directional gain greater than 6 dBi are used, both the maximum conducted output power and the peak power spectral density shall be reduced by the amount in dB that the directional gain of the antenna exceeds 6 dBi. However, fixed point-to-point U-NII devices operating in this band may employ transmitting antennas with directional gain up to 23 dBi without any corresponding reduction in the transmitter peak output power or peak power spectral density. For fixed, point-to-point U-NII transmitters that employ a directional antenna gain greater than 23 dBi, a 1 dB reduction in peak transmitter power and peak power spectral density for each 1 dB of antenna gain in excess of 23 dBi would be required. Fixed, point-to-point operations exclude the use of point-to-multipoint systems, omnidirectional applications, and multiple collocated transmitters transmitting the same information. The operator of the U-NII device, or if the equipment is professionally installed, the installer, is responsible for ensuring that systems employing high gain directional antennas are used exclusively for fixed, point-to-point operations.

**Note to paragraph (a)(3):** The Commission strongly recommends that parties employing U-NII devices to provide critical communications services should determine if there are any nearby Government radar systems that could affect their operation.

(4) The maximum conducted output power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true peak measurement conforming to the above definitions for the emission in question.

(5) The peak power spectral density is measured as a conducted emission by direct connection of a calibrated test

instrument to the equipment under test. If the device cannot be connected directly, alternative techniques acceptable to the Commission may be used. Measurements are made over a bandwidth of 1 MHz or the 26 dB emission bandwidth of the device, whichever is less. A resolution bandwidth less than the measurement bandwidth can be used, provided that the measured power is integrated to show total power over the measurement bandwidth. If the resolution bandwidth is approximately equal to the measurement bandwidth, and much less than the emission bandwidth of the equipment under test, the measured results shall be corrected to account for any difference between the resolution bandwidth of the test instrument and its actual noise bandwidth.

(6) The ratio of the peak excursion of the modulation envelope (measured using a peak hold function) to the maximum conducted output power (measured as specified above) shall not exceed 13 dB across any 1 MHz bandwidth or the emission bandwidth whichever is less.

\* \* \* \* \*

[FR Doc. 04-19745 Filed 9-3-04; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[CC Docket No. 94-102, IB Docket No. 99-67; FCC 04-201]

### Scope of Enhanced 911 Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission sets forth recordkeeping and reporting requirements in connection with mobile satellite service (MSS) providers' implementation of 911 emergency call centers. As many citizens, elected representatives, and public safety personnel recognize, 911 service is critical to our Nation's ability to respond to a host of crises and this document enhances the Nation's ability to do so.

**DATES:** Effective February 14, 2005. The pre-implementation call center reports (a one-time filing) are due by October 12, 2004. The post-implementation call center reports are due annually, beginning on October 15, 2005.

**ADDRESSES:** All comments should be addressed to the Office of the Secretary, Federal Communications Commission,

445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to [Kristy\\_L.\\_LaLonde@omb.eop.gov](mailto:Kristy_L._LaLonde@omb.eop.gov) or by fax to 202-395-5167.

### FOR FURTHER INFORMATION CONTACT:

Arthur Lechtman, Satellite Division, International Bureau, at (202) 418-1465. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202-418-0214, or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Second Report and Order* (R&O), adopted on August 18, 2004, and released on August 25, 2004. The full text of the *Second Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com). This R&O contains a modified information collection subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection contained in this proceeding.

### Paperwork Reduction Act of 1995 Analysis

#### *Initial Paperwork Reduction Act of 1995 Analysis*

This R&O contains a modified information collection. Specifically, the Commission previously obtained Office of Management and Budget (OMB) approval for submission of the post-implementation call center report in paper format (See OMB Control Number 3060-1059). The *Second Report and Order* requires mandatory electronic filing of these reports. The Commission, as part of its continuing effort to reduce

paperwork burdens, invites the general public and the OMB to comment on the information collection(s) contained in this R&O, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. Public and agency comments are due November 8, 2004. PRA comments should address: (a) Whether the modified 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; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

*OMB Control Number:* 3060-1059.

*Title:* Revision of the Commission's rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems; Amendment of parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding.

*Form No.:* Not applicable.

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

*Respondents:* 25 respondents.

*Estimated Number of Responses:* 75 responses.

*Estimated Time Per Response:* 1-2 hours.

*Frequency of Response:* On occasion, annual and other reporting requirements, recordkeeping requirement.

*Estimated Total Annual Burden:* 75 hours.

*Estimated Total Annual Costs:* \$8,000.

*Privacy Act Impact Assessment:* Not applicable.

*Needs and Uses:* The Commission released a Second Report and Order titled, "Revision of the Commission's rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems; Amendment of parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration (NTIA) to Amend part

25 of the Commission's rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band," CC Docket No. 94-102; IB Docket No. 99-67, FCC 04-201. (E911 Scope Second R&O).

In the E911 Scope Second R&O, the Commission concluded that pursuant to § 25.143, Mobile Satellite Service (MSS) carriers must file annual reports with the Commission electronically beginning October 15, 2005. The reports will include carrier and call center contact information, the aggregate number of calls received by the call center each month during the relevant reporting period, and the number of those calls that required forwarding to a PSAP. The MSS carriers' filing of post-implementation reports with the Commission annually will help the Commission to monitor compliance with the call center requirement and determine whether modification to the requirement is warranted. The reports will also be a means of updating the public record on call center contact information. The Commission is revising OMB Control Number 3060-1059 to implement mandatory electronic filing for the post-implementation reports beginning October 15, 2005. The number of respondents, annual burden hours, etc. include the pre-implementation report that MSS carriers will file with the Commission one-time only on October 12, 2004. A Correction Worksheet (OMB 83-c) will be submitted to the Office of Management and Budget (OMB) to remove the paperwork burden associated with the pre-implementation report after October 12, 2004.

The information collections that result from the E911 Scope Second R&O are used by the Commission under its authority to license commercial satellite services in the United States. Without the collection of information that would result from these proposed rules, the Commission would not be able to monitor the MSS carriers' establishment of call centers which are essential to provide emergency services, such as handling emergency 911 telephone calls from American citizens. The recordkeeping and reporting requirements include data on MSS call center use such as the aggregate number of calls that the call centers receive and the number of calls that required forwarding to a local PSAP. The Commission will use this data to monitor compliance with the call center requirement and track usage trends. Such information would be useful to the Commission in considering whether FCC rules require modification to accommodate the changing market.

## I. Overview

1. In this Second Report and Order, we adopt recordkeeping and reporting requirements in connection with implementation of the mobile satellite service (MSS) 911 emergency call center rule. The Commission adopted the call center rule in 2003, Revision of the Commission's rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, IB Docket No. 99-67, *Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 25340, 2003, and stated that it would become effective 12 months after **Federal Register** publication, which occurred on February 11, 2004. *See Report and Order and Second Further Notice of Proposed Rulemaking*, 69 FR 6578, February 11, 2004. The new reporting requirements that we adopt today will ensure that MSS carriers deploy their emergency call centers by February 11, 2005, in a timely manner and that all stakeholders (including the Commission, service providers, public safety organizations, and customers) are informed during the implementation and operation of these centers. Reliable communications systems for public safety and Homeland Security are core goals of the Commission in serving the public interest. This decision represents a balanced approach, which takes into consideration the expectations of consumers and the need to strengthen Americans' ability to access public safety entities in times of crisis, including for Homeland Security purposes.

### A. Pre-Implementation Status Reports

2. *Discussion.* We will require MSS carriers to file pre-implementation status reports concerning their respective plans to deploy emergency call centers. We conclude that this requirement will encourage carrier planning efforts (particularly those carriers that do not already provide emergency call centers) and discussions with other necessary participants in the public safety community. Advance notification will inform stakeholders how MSS carriers intend to connect with PSAPs. Contrary to Globalstar's assertions, we believe that a certification of compliance would arrive too late to stimulate advance discussions with the public safety community. These discussions may be instrumental in ensuring that MSS carriers have the necessary resources to handle effectively emergency call traffic. Rather than have the pre-implementation report due three months prior to the effective date (as proposed), we require

MSS carriers to submit these reports by October 12, 2004, four months prior to the call center rule's effective date. We believe that an October deadline will (a) give carriers sufficient time to prepare their reports and (b) allow for any public safety coordination that may be necessary prior to February 11, 2005.

3. The pre-implementation reports should include the following information: (a) Carrier identification information, including the person or persons filing the report and contact information; (b) a description of the carrier's coverage area; (c) basic call center information, including location and plans for routing emergency calls to PSAPs; (d) a description of how the call center features will be communicated to customers; and (e) an indication of any problems that the carrier has experienced in organizing its call center. We anticipate that the reports will be brief due to the limited nature of the information we are seeking, and therefore the reporting requirement should not impose substantial new burdens on carriers. In order to minimize any burden, we permit the electronic filing of the reports, which will be available on the Commission's Web site for ease of accessibility. Those carriers choosing to submit paper reports should submit an original and one copy to the Secretary's office to the attention of the Chief of the International Bureau at 445 12th Street, SW., Washington, DC 20554. We will also direct the Chief, International Bureau, to issue a public notice addressing the administrative details of the electronic submissions. Carriers may make changes in their plans after the report is filed, but to the extent that any substantial changes occur, carriers must file updates to their reports within 30 days of the adoption of any such change. We believe that the pre-implementation reports will provide valuable information for coordinating carrier plans with PSAPs and will assist our efforts to monitor implementation of the call center rule in a timely manner. If a carrier anticipates that it will not be able to meet the February 11, 2005, deadline for call center deployment, it should file a request for extension of time as early as possible in advance of the February 2005 deadline.

#### B. Post-Implementation Status Reports

4. *Discussion.* We believe that collection of call center data will benefit the public interest. We will require that MSS carriers keep track of all calls received at their emergency call centers. (The Commission does not require a similar call tracking requirement for other wireless carriers. The number of

911 calls currently received by MSS carriers is significantly lower than that received by terrestrial wireless carriers. In addition, the different nature of the 911 requirements and technological nature of the different services provides for a different approach in reporting requirements. Cellular and PCS providers are required to use technological solutions to automatically route 911 calls to the proper emergency personnel. Under the call center rule, MSS carriers must rely on staff at a call center to route the 911 call.) The reporting requirement on the number of calls received will assist us in monitoring a number of issues, including whether MSS carriers are complying with the call center rule, whether call centers are capable of handling 911 call traffic, and whether network enhancements would be necessary to improve the transfer of emergency calls from the call center to PSAPs. In addition, any MSS carriers that begin operation after February 11, 2005 would not be subject to a pre-implementation report; rather, they would need to comply with the call center requirement when operations begin (to the extent that two-way interconnected voice service is provided, consistent with our MSS call center policies). The post-implementation call center data reports would provide the only records on file at the Commission concerning those carriers' emergency call centers. MSS carriers must also identify which calls required forwarding to a PSAP and which did not. As we stated in the *E911 Scope Second Further Notice*, we believe that this data will be useful in assisting the Commission in monitoring compliance with the call center requirement as well as determining whether modification to the requirement is warranted. As suggested by NENA/NASNA, we will not require carriers to supply customer-specific information with these reports. Instead, carriers may submit the information in aggregate form. These reports must be filed once per year by each MSS carrier subject to the call center rule. In order to reduce the burden on carriers, the call center report will be due on the same day that MSS licensees must file their annual reports pursuant to § 25.143. See 47 CFR 25.143(e). Operators of 1.6/2.4 GHz MSS and 2 GHz MSS systems must file reports on October 15 of each year concerning various aspects of their satellite system. Operators of MSS in other bands (e.g., L-band) are subject to the annual reporting requirements contained in § 25.210(l), which designates June 30 of each year as the

reporting deadline. See 47 CFR 25.210(l). Therefore, the first call center reports will be due on October 15, 2005. Those MSS carriers that have a June 30 annual reporting requirement may submit their first post-implementation call center status reports on June 30, 2006.

5. We do not believe that this reporting requirement will impose substantial burdens on carriers, contrary to Globalstar's position. The information that we are collecting is minimal. Consistent with the Commission's recent requirement that all part 25 related filings be filed electronically, Amendment of the Commission's Space Station Licensing Rules and Policies, 2000 Biennial Regulatory Review—Streamlining and Other Revisions of part 25 of the Commission's rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations, IB Docket Nos. 02–34 and 00–248, *Fourth Report and Order*, 69 FR 47790, August 6, 2004, we require the post-implementation report to be filed electronically. We will also make these reports available on our Web site, and direct the Chief, International Bureau, to issue a public notice addressing the administrative details of the electronic submissions. We received no comments on our proposal to establish a sunset provision for a post-implementation reporting requirement. We anticipate that this requirement will sunset of its own accord after we transition MSS from 911 call centers to an automated E911 system following the conclusion of NRIC VII. Until that time, the data that carriers collect will provide valuable information that will assist in monitoring usage trends and also will help public safety organizations assess call center effectiveness. Usage trends may be an indicator of the need to modify the call center rule to be more responsive to call traffic or the need to hasten the transition to automatic delivery of MSS 911 calls to PSAPs.

#### C. Other Issues

6. *Discussion.* When we adopted the MSS call center requirement, we stated that call center operators must obtain the caller's phone number and location. We clarify now that call centers may share this information with the PSAP that receives the forwarded call. We must ensure that PSAPs can reconnect interrupted emergency calls as quickly as possible. We agree with NENA/NANSA's assertion that section 222(d) of the Communications Act permits MSS call centers to disclose to a PSAP any customer-specific information necessary to "reconnect with the caller

and proceed with the emergency response.” (NENA/NASNA comments at 4). Moreover, MSS call centers are permitted under section 222(g) to provide PSAPs with subscriber listed and unlisted information (including caller name and number) in order to assist in the delivery of emergency services. Consequently, there is no need for us to determine here whether a call center meets the definition of a PSAP.

## II. Final Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Revision of the Commission’s rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems Second Further Notice of Proposed Rulemaking (2nd FNPRM). The Commission sought written public comment on the proposals in the 2nd FNPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) for the *Second Report and Order* conforms to the RFA.

### A. Need for, and Objectives of, the Proposed Rules

8. The *Second Report and Order* issues new reporting and recordkeeping rules in connection with the implementation of the mobile satellite service (MSS) emergency call center rule, 47 CFR 25.284, that was initiated with the *Second Further Notice of Proposed Rulemaking*, CC Docket No. 94–102 and IB Docket No. 99–67. The *Second Report and Order* requires MSS carriers subject to the call center rule to file a report with the Commission that indicates the carrier’s plans for establishing its emergency call center. This report will ensure that MSS carriers deploy their emergency call centers by February 11, 2005, in a timely manner and that all stakeholders (including the Commission, service providers, public safety organizations, and customers) are informed during the implementation and operation of these centers. The *Second Report and Order* also requires MSS carriers subject to the call center rule to file annual reports regarding contact information and call traffic data, including the aggregate number of calls received on a monthly basis and the number of those calls that required transferring to a public safety answering point (PSAP). The Commission takes this action in recognition of Congress’ directive to “facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless

communications, to meet the Nation’s public safety and other communications needs.” In addition, the Commission takes this action to ensure consumers’ expectations regarding access to 911 service are met, to strengthen Americans’ ability to access public safety. It has balanced those goals against the needs of entities offering these services to be able to compete in a competitive marketplace.

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

9. We received no comments directly in response to the IRFA in this proceeding.

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

10. 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 adopted 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 (5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions(s) in the **Federal Register**.” 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.”

11. Incumbent Local Exchange Carriers. Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small

if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, we estimate that the majority of providers of local exchange service are small entities that may be affected by the rules and policies adopted herein.

12. Competitive Local Exchange Carriers. Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of competitive local exchange service are small entities that may be affected by the rules.

13. Competitive Access Providers. Neither the Commission nor the SBA has developed a specific size standard for competitive access providers (CAPS). The closest applicable standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 609 CAPs or competitive local exchange carriers and 35 other local exchange carriers reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 competitive access providers and competitive local exchange carriers, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. Of the 35 other local exchange carriers, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of small entity CAPS and the majority of other local exchange carriers may be affected by the rules.

14. Local Resellers. The SBA has developed a specific size standard for small businesses within the category of

Telecommunications Resellers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 133 companies reported that they were engaged in the provision of local resale services. Of these 133 companies, an estimated 127 have 1,500 or fewer employees and 6 have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers may be affected by the rules.

15. Toll Resellers. The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 625 companies reported that they were engaged in the provision of toll resale services. Of these 625 companies, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that a majority of toll resellers may be affected by the rules.

16. Interexchange Carriers. Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 261 carriers reported that their primary telecommunications service activity was the provision of interexchange services. Of these 261 carriers, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, we estimate that a majority of interexchange carriers may be affected by the rules.

17. Operator Service Providers. Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 23 companies reported that they were engaged in the provision of operator services. Of these 23 companies, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission

estimates that a majority of local resellers may be affected by the rules.

18. Prepaid Calling Card Providers. The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 37 companies reported that they were engaged in the provision of prepaid calling cards. Of these 37 companies, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of prepaid calling providers may be affected by the rules.

19. Mobile Satellite Service Carriers. Neither the Commission nor the U.S. Small Business Administration has developed a small business size standard specifically for mobile satellite service licensees. The appropriate size standard is therefore the SBA standard for Satellite Telecommunications, which provides that such entities are small if they have \$12.5 million or less in annual revenues. Currently, nearly a dozen entities are authorized to provide voice MSS in the United States. We have ascertained from published data that four of those companies are not small entities according to the SBA's definition, but we do not have sufficient information to determine which, if any, of the others are small entities. We anticipate issuing several licenses for 2 GHz mobile earth stations that would be subject to the requirements we are adopting here. We do not know how many of those licenses will be held by small entities, however, as we do not yet know exactly how many 2 GHz mobile-earth-station licenses will be issued or who will receive them. The Commission notes that small businesses are not likely to have the financial ability to become MSS system operators because of high implementation costs, including construction of satellite space stations and rocket launch, associated with satellite systems and services.

20. Other Toll Carriers. Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to "Other Toll Carriers." This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's

*Telephone Trends Report* data, 92 carriers reported that they were engaged in the provision of "Other Toll Services." Of these 92 carriers, an estimated 82 have 1,500 or fewer employees and ten have more than 1,500 employees. Consequently, the Commission estimates that a majority of "Other Toll Carriers" may be affected by the rules.

21. Wireless Service Providers. The SBA has developed a size standard for small wireless businesses within the two separate categories of Cellular and Other Wireless Telecommunications and Paging. Under these standards, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 1,387 companies reported that they were engaged in the provision of wireless service. Of these 1,387 companies, an estimated 945 have 1,500 or fewer employees and 442 have more than 1,500 employees. Consequently, we estimate that a majority of wireless service providers may be affected by the rules.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

22. Paragraphs 10–14 of the *Second Report and Order* require that all MSS licensees subject to the emergency call center requirement both (a) submit implementation progress reports prior to the effective date of the call center requirement and (b) record data on call center operations for annual reporting purposes. *See also* Section E, *infra*.

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

23. 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 or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

24. The critical nature of the 911 and E911 proceedings limit the Commission's ability to provide small carriers with a less burdensome set of E911 regulations than that placed on large entities. A delayed or less than adequate response to an E911 call can

be disastrous regardless of whether a small carrier or a large carrier is involved. Prior to adoption of the call center rule, 47 CFR 25.284, MSS carriers had been exempt from the Commission's 911 and E911 regulations.

25. As mentioned, the *Second Report and Order* sets forth reporting and recordkeeping requirements in connection with implementation of the MSS emergency call center requirement. The first reporting requirement is a one-time filing that MSS carriers (those subject to the call center rule) must submit, electronically, prior to the effective date of the call center rule. This report would provide the Commission, the public, and the public safety community with valuable information concerning the carrier's plans to establish an emergency call center. Call center 911 service is a new form of 911 service, and the *Second Report and Order* also requires collection of call center data, including the number of calls received during a given period and the number of calls requiring forwarding to a public safety answering point (PSAP). To minimize burdens on MSS carriers, including small entities, the *Second Report and Order* requires that the annual call center data reports be filed electronically and that the deadline for submission be consistent with the deadline for satellite operators' annual satellite reports.

26. By tailoring its rules in this manner, the Commission seeks to fulfill its obligation of ensuring "a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs."

#### F. Report to Congress

27. The Commission will send a copy of the *Second Report and Order*, 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 the *Second Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Second Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

### III. Ordering Clauses

28. *It is ordered*, that pursuant to sections 1, 4(i), 7, 10, 201, 202, 208, 214, 222(d)(4)(A)–(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)–(5), 251(e)(3), 301, 303, 308, and 310 of the Communications Act of 1934, as

amended, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 222(d)(4)(A)–(C), 222(f), 222(g), 222(h)(1)(A), 222(h)(4)–(5), 251(e)(3), 301, 303, 308, 310, this *Second Report and Order* is hereby *adopted*.

29. *It is further ordered* that the rule changes set forth will become effective on February 14, 2005.

30. *It is further ordered* that, pursuant to 47 U.S.C. 155(c) and 47 CFR 0.261, the Chief of the International Bureau is delegated authority to prescribe and set forth procedures for the implementation of the provisions adopted herein.

31. *It is further ordered* that the Commission's Office of Consumer and Government Affairs, Reference Information Center, *shall send* a copy of this *Second Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

#### Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

### PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309, and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309, 332, unless otherwise noted.

■ 2. Redesignate the text of § 25.284 as § 25.284(a), and add new paragraph (b), to read as follows:

#### § 25.284 Emergency Call Center Service.

(a) \* \* \*

(b) Beginning February 11, 2005, each mobile satellite service carrier that is subject to the provisions of paragraph (a) of this section must maintain records of all 911 calls received at its emergency call center. Beginning October 15, 2005, and on each following October 15, mobile satellite service carriers providing service in the 1.6/2.4 GHz and 2 GHz bands must submit a report to the Commission regarding their call center data, current as of September 30 of that year. Beginning June 30, 2006, and on each following June 30, mobile satellite service carriers providing service in

bands other than 1.6/2.4 GHz and 2 GHz must submit a report to the Commission regarding their call center data, current as of May 31 of that year. These reports must include, at a minimum, the following:

(1) The name and address of the carrier, the address of the carrier's emergency call center, and emergency call center contact information;

(2) The aggregate number of calls received by the call center each month during the relevant reporting period;

(3) An indication of how many calls received by the call center each month during the relevant reporting period required forwarding to a public safety answering point and how many did not require forwarding to a public safety answering point.

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### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Parts 106, 107, 171, 172, 173, 178, 179 and 180

[Docket No. RSPA–04–16099 (HM–189W)]

RIN 2137–AD99

#### Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are minor changes and do not impose new requirements.

**DATES:** *Effective date:* October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Darral Relerford, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Research and Special Programs Administration (RSPA, we) annually