

Washington, DC, 20460, Attention Docket ID No. RCRA-2003-0025.

3. *By Hand Delivery or Courier.*

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## II. Description of Proposed Amendments

The United States Environmental Protection Agency (EPA or Agency) is today proposing to grant three site-specific treatment variances from the Land Disposal Restrictions (LDR) treatment standards for selenium-bearing hazardous wastes from the glass manufacturing industry.

In its first action, EPA is proposing to grant a variance to Heritage Environmental Services LLC (Heritage) to stabilize a selenium-bearing waste generated by Guardian Industries Corp. (Guardian) at their RCRA permitted facility in Indianapolis, Indiana. If this proposal is finalized, Heritage may treat the specific waste to an alternate selenium treatment standard of 39.4 mg/L, as measured by the TCLP, for the

Guardian waste. Heritage may dispose of the treated wastes in a RCRA Subtitle C landfill, provided they meet the applicable LDR treatment standards for the other hazardous constituents in the waste.

In its second and third actions, EPA is proposing to permanently establish two site-specific variances from Land Disposal Restrictions treatment standards for Chemical Waste Management Inc. (CWM), at their Kettleman Hills facility in Kettleman City, California, for two selenium bearing hazardous wastes. EPA previously granted variances to these wastes on a temporary basis on May 26, 1999 (64 FR 28387). On May 28, 2002 (67 FR 36849), EPA renewed these variances for a consecutive three year term with the same condition to investigate treatment technologies and to report effectiveness of their ongoing treatment. These variances expire on May 28, 2005. In light of the information presented by CWM to the Agency and EPA's inability to find selenium recovery capability in the US, EPA is proposing to change the status of CWM variances from temporary to permanent. If this proposal is finalized, CWM will continue to be required to treat these two specific wastes to alternative selenium treatment standards of 51 mg/L, as measured by the TCLP, for the Owens-Brockway waste, and 25 mg/L, as measured by the TCLP, for the St. Gobain (formally Ball Foster) waste. CWM will continue to dispose of the treated wastes in a RCRA Subtitle C landfill provided they meet the applicable LDR treatment standards for the other hazardous constituents in the wastes.

### List of Subjects in 40 CFR Part 268

Environmental Protection, Hazardous waste, Variance.

Dated: February 4, 2004.

**Marianne Lamont Horinko,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 04-2820 Filed 2-10-04; 8:45 am]

**BILLING CODE 6560-50-U**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 20, 25, 64 and 68

[CC Docket No. 94-102, IB Docket No. 99-67; FCC 03-290]

### Scope of Enhanced 911 Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission seeks comment on issues pertaining to expanding the scope of its enhanced 911 (E911) rules to cover mobile satellite service providers that have an ancillary terrestrial component. The Commission also seeks comment on recordkeeping and reporting proposals in connection with mobile satellite service providers' implementation of 911 emergency call centers. Further, the Commission considers whether multi-line telephone systems (MLTS) should be required to provide access to enhanced 911 service and questions whether the Commission should adopt revisions to its rules. 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:** Comments must be filed on or before March 29, 2004. Reply comments are due April 26, 2004. To file formally in this proceeding, interested parties must file an original plus six copies of all comments, reply comments, and supporting comments. If parties filing comments want each Commissioner to receive a personal copy of the comments, the parties must file an original plus eleven copies. Written comments on the proposed information collection(s) must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before April 12, 2004.

**ADDRESSES:** All comments should be addressed to the Office of the Secretary, Federal Communications Commission, 445 Twelfth 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*, 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* or by fax to 202-395-5167.

### FOR FURTHER INFORMATION CONTACT:

Arthur Lechtman, Satellite Division, International Bureau, at (202) 418-1465, or Marcy Greene, Competition Policy Division, Wireline Competition Bureau, at (202) 418-2410. 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.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Second Further Notice of Proposed Rulemaking*, adopted on November 13, 2003, and released on December 1, 2003 in connection with the *Report and Order* adopted in the same proceeding (and published separately in the **Federal Register**). The full text of the *Second Further Notice of Proposed Rulemaking* 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, 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 [qualexint@aol.com](mailto:qualexint@aol.com). This NPRM contains proposed information collection(s) 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 proposed information collections contained in this proceeding.

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

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

This NPRM contained proposed new information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104-13. Public and agency comments are due April 12, 2004. PRA comments should address: (a) Whether the proposed 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.

OMB Control Number: 3060-XXXX.

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.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 25 respondents; 75 responses.

Estimated Time Per Response: 1-2 hours.

Frequency of Response: On occasion, annual and other reporting requirements, recordkeeping requirement, and third party disclosure requirement.

Total Annual Burden: 75 hours.

Total Annual Costs: \$8,000.

Needs and Uses: The Commission proposes that Mobile Satellite Service (MSS) carriers subject to the call center requirement should prepare and submit a report on their plans for implementing call centers no later than three months prior to the call center's effective date (*i.e.*, 12 months after **Federal Register** publication of the E911 Scope proceeding.) These advance reports would assist FCC efforts to monitor call center development and provide the public with valuable information about MSS emergency services.

#### **I. Overview**

1. In this Second Further Notice of Proposed Rulemaking, the Commission addresses the obligation of mobile satellite services (MSS) and multi-line telephone systems (MLTS) to provide enhanced 911 capabilities. Its analysis includes a discussion of (a) 911 obligations for MSS providers that have an ancillary terrestrial component to their service and (b) recordkeeping and reporting proposals in connection with implementation of MSS emergency call centers (*see Report and Order*, FCC 03-290, rel. December 1, 2003). It also seeks comment on the Commission's role in requiring multi-line telephone systems to deliver call-back and location information, and seeks comment on the value of a national approach where states have failed to act.

##### *A. Integration of Ancillary Terrestrial Component*

2. *Discussion.* The Commission believes for those calls that utilize only the ancillary terrestrial component (ATC) of an MSS system, the carrier should provide access to the same 911 services as terrestrial CMRS providers. Including 911 features in the design stage of ATC systems will prevent potentially costly and complicated

retrofitting at a later date. The Commission seeks additional comment, however, concerning whether transition periods for compliance are warranted, and if so what an appropriate schedule would be. The Commission also seeks comment whether MSS carriers with integrated ATC will be able to comply with the location accuracy standards (for both network-based and handset-based solutions) of § 20.18, and if they cannot, why. The Commission directs the rechartered Network Reliability and Interoperability Council (NRIC) to study whether hand-off of calls between terrestrial and satellite network components will be a factor and if so what the impact will be on 911 service.

##### *B. MSS Carriers' Reporting and Recordkeeping Requirements*

3. *Background and Discussion.* The call center rule requires MSS carriers to deploy call centers 12 months after publication of the *Report and Order* (FCC 03-290, released December 1, 2003). The Commission seeks comment whether MSS carriers subject to the call center requirement should prepare and submit a report on their plans for implementing call centers no later than three (3) months prior to the call center rule's effective date. The report would have to include basic information concerning the carrier's call center plans, including staffing and site considerations and the public safety answering point (PSAP) database to be used. The Commission expects that the reports would assist its efforts to monitor call center development and then take any necessary actions to ensure that the implementation deadline is met. The reports would also provide the public with valuable information about MSS emergency services.

4. The Commission also seeks comment on recordkeeping and reporting requirements post-call center deployment. The Commission is interested in collecting data on MSS call center use, including the volume of calls that the call centers receive. The Commission would find other call data useful as well, such as the number of calls that required forwarding to a local PSAP and the success rate in handing off calls to the proper PSAP. The Commission seeks comment on whether MSS carriers should record and store this information themselves, subject to inspection by the Commission at any time, or whether MSS carriers should file the information in the form of a report once a year with the Commission or another entity. Collection of call data would allow the Commission to monitor compliance with the call center

requirement and track usage trends. The Commission also seeks comment on sunset provisions for any recordkeeping or reporting requirements, and requests information about appropriate sunset timeframes.

### C. Multi-Line Telephone Systems

5. Through this Notice, the Commission seeks further comment on its role in requiring multi-line systems to deliver call-back and location information, and specifically seeks comment on the value of a national approach where states have failed to act. While the Commission continues to study the need for federal action, it expects states to work quickly to adopt legislation to reduce any gaps in this area. The Commission notes that if state action proves uniformly effective, further action by the Commission may not be necessary.

6. As an initial matter, the Commission seeks to refresh the record on the prevalence of MLTS and on the status of E911 implementation for those systems. The Commission seeks comment on the number of lines that are served by multi-line systems, and the full range of operators who manage them. The Commission encourages commenters to provide as comprehensive a picture as possible of the status of MLTS deployment, but to also note particular variations by location or type of user. The Commission seeks comment on how the growth of Internet-protocol telephony will affect the manufacture and deployment of new MLTS equipment and its use for 911/E911 calls. Does this development affect the policy question of whether MLTS E911 standards should be uniform nationally, or instead can be set on state by state basis? With regard to MLTS manufacturers, the Commission seeks comment as to whether E911 features represent an opportunity for manufacturers to improve the value of their equipment. If so, is the value added by these improvements worth the increased costs to their customers? If the status of MLTS E911 implementation has changed over time, the Commission seeks comment on the application of the four criteria discussed in the *Report and Order*.

7. The Commission also seeks updated comment on its authority to require compliance with E911 rules it may adopt, on all of the affected parties: carriers, manufacturers, PSAPs, and MLTS operators. In particular, the Commission asks commenters to focus on the nature of the Commission's jurisdiction over MLTS operators, in light of the Commission's earlier interpretations of section 4(i) authority

and its prior statement that "the reliability of 911 service is integrally related to our responsibilities under section 1 of the Act, which include 'promoting safety of life and property through the use of wire and radio communication.'" To the extent that parties ask the Commission to adopt rules in this area, the Commission also seeks comment on whether any such rules would have a disproportionate impact on small entities. The Commission also seeks comment generally on steps that it can take to ensure that small entities are not disproportionately impacted, if any such steps are necessary.

8. Finally, the Commission seeks comment on NENA's proposed new section to our part 64 rules requiring that LEC central offices be provisioned to permit connection of MLTS equipment for E911 purposes "in any accepted industry standard format, as defined by the FCC, requested by the MLTS operator." In connection with this recommendation, the Commission seeks comment on NEC's recommendation that the Commission adopt the ANSI T1.628-2000 ISDN network interface standard as an "accepted industry standard," thereby requiring LECs to enable MLTS operators to use a more efficient means of interfacing with the network than is currently available in most instances.

## II. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Second Further Notice of Proposed Rulemaking (Second Further Notice)*, IB Docket No. 99-67 and CC Docket No. 94-102. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further Notice*. The Commission will send a copy of the *Second Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, the *Second Further Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

10. The *Second Further Notice* continues a reevaluation of the scope of communications services that should

provide access to emergency services that was initiated with the *Further Notice of Proposed Rulemaking*, CC Docket No. 94-102 and IB Docket No. 99-67. The *Second Further Notice* examines and seeks comment on the need to require compliance with the Commission's basic and enhanced 911 (E911) rules, or similar requirements, by mobile satellite service (MSS) providers, including MSS providers having an ancillary terrestrial component (ATC). The *Second Further Notice* also seeks comment on a proposal to require mobile satellite service (MSS) providers to comply with reporting and recordkeeping requirements in connection with emergency call center implementation. Further, the *Second Further Notice* considers whether multi-line telephone systems (MLTS) should be required to provide access to enhanced 911 (E911) service and questions whether the Commission should adopt revisions to its part 64 rules.

### B. Legal Basis for Proposed Rules

11. The proposed action is authorized under 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, 309(j), 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, 309(j), 310.

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

12. 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. 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."

13. We have included small incumbent local exchange carriers in

this present 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.

14. *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.

15. *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.

16. *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.

17. *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.

18. *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.

19. *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.

20. *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.

21. *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.

22. *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. Still, we request comment on the number and identity of small entities that would be significantly impacted by the proposed rule changes.

23. *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.

24. *Wireless Service Providers.* The SBA has developed a size standard for small 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*

25. The reporting, recordkeeping, or other compliance requirements ultimately adopted will depend on the rules adopted and the services subject to those rules. First, any and all of the affected entities who the Commission finds appropriate to provide 911 and E911 services (*See Legal Authority, for example, in paragraphs 12–17 of the Report and Order*) would need to comply with the Commission's basic or enhanced 911 rules. This would involve

a schedule for implementing 911 and E911 service, and possibly regulations mandating the provision of automatic number identification (ANI), possible software modification to assist in recognition of single or multiple emergency numbers, and provision of automatic location information (ALI) and interference precautions, as well as regulations, specific to individual services. Additionally, paragraphs 111–112 of the *Second Further Notice* seek comment on proposals that all Mobile Satellite Service (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 possible reporting purposes.

26. The *Second Further Notice*, in paragraphs 113–117, examines whether to require multi-line telephone systems, including wireline, wireless, and Internet protocol-based systems, to deliver call-back and location information. Possible requirements that the *Second Further Notice* suggests if the Commission decides that multi-line telephone systems should provide these services include technical standards as discussed in paragraph 117. Paragraphs 114–116 seek comment on the scope of deployment of MLTS and on the Commission's jurisdiction over all parties involved in the provision of E911 over MLTS, including carriers, MLTS manufacturers, PSAPs, and MLTS operators.

27. Other regulations and requirements are possible for those services discussed in the *Second Further Notice* found suitable for 911 and E911 service. Such rules and requirements could be found appropriate, based on comment filed in response to the *Second Further Notice* and would be designed to meet the consumer needs and licensee situations in each service and service area.

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

28. 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.

29. 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. MSS providers have been exempt to date from the Commission's 911 and E911 regulations as the Commission sought information from which to judge the appropriateness of requiring that these services provide 911 and E911 service. The *Second Further Notice* continues this examination and reflects the Commission's concern that only those entities that can reasonably be expected to provide emergency services, financially and otherwise, be asked to provide this service. The *Second Further Notice* affords small entities another opportunity to comment on the appropriateness of the affected services providing emergency services and on what the Commission can do to minimize the regulatory burden on those entities who meet the Commission's criteria for providing such service.

30. Throughout the *Second Further Notice*, the Commission tailors its request for comment to devise a prospective regulatory plan for the affected entities, emphasizing the individual needs of the service providers, manufacturers, and operators as well as the critical public safety needs at the core of this proceeding. The Commission will consider all of the alternatives contained not only in the *Second Further Notice*, but also in the resultant comments, particularly those relating to minimizing the effect on small businesses.

31. The most obvious alternatives raised in the *Second Further Notice* are whether the services under discussion should be required to comply with the Commission's basic and enhanced 911 rules or whether the Commission should continue to exempt these entities from providing this service.

32. Along these lines, discussion of criteria and alternatives could focus on implementation schedules. In discussing the prospective entities and soliciting further information, throughout the *Second Further Notice* the Commission invites comment on the schedule for implementing 911 and E911 services which best meets the abilities, technically and financially, of the individual entities. In the past, the Commission has best been able to offer

affected small and rural entities some relief from E911 by providing small entities with longer implementation periods than larger, more financially flexible entities that are better able to buy the equipment necessary to successful 911 and E911 implementation and to first attract the attention of equipment manufacturers. We again seek comment on such possible alternatives.

33. In its discussion of MSS, the *Second Further Notice* recognizes that although satellite carriers face unique technical difficulties in implementing both basic and enhanced 911 features, these difficulties are avoided to a larger extent when the carrier has an ancillary terrestrial component (ATC) to its service. Thus, in paragraphs 107–110, the *Second Further Notice* examines the impact of ATC on MSS providers' ability to offer the same enhanced 911 service that terrestrial wireless carriers provide. Paragraph 108 of the *Second Further Notice* notes that several commenters, thus far, have indicated that MSS basic and enhanced 911 service can be improved with ATC. The *Second Further Notice* suggests alternative solutions to this problem, asking whether MSS providers with ATC should be allowed additional time (or transition periods) in order to come into compliance with terrestrial E911 rules, and whether they can meet the location identification standards of § 20.18 (47 CFR 20.18). The *Second Further Notice* also directs the Network Reliability and Interoperability Council to study issues associated with hand-off of calls between satellite and terrestrial components.

34. As mentioned, the *Second Further Notice* seeks comment on reporting and recordkeeping proposals in connection with implementation of the MSS emergency call center requirement. Call center 911 service is a new form of 911 service, and the *Second Further Notice* seeks comment on the collection of call center data, including total volume of calls received during a given period, the number of calls requiring forwarding to a PSAP, and the success rate in handing off the call to an appropriate PSAP. The *Second Further Notice* suggests alternatives for this data collection, seeking comment on whether the information should simply be retained by service providers and available upon Commission request, whether the information should be submitted to the Commission on a regular basis, or whether the information should be submitted to a third party for review. In addition, the *Second Further Notice* seeks comment on whether the proposed data collection/recordkeeping

requirement should be subject to sunset provisions.

35. The *Second Further Notice*, in paragraphs 113–117, examines potential 911 and E911 requirements for multi-line telephone systems. In that regard, the Commission considers whether to impose such regulations on a national basis or whether it is sufficient to rely on actions by state and local authorities to ensure reliable coverage. NENA and APCO, for example, have proposed Model Legislation that would allow states, through legislation, to adopt many of the standards and protocol association with delivering E911 services through multi-line systems. Paragraph 117 considers adopting NENA's proposed new section to our part 64 rules requiring that LEC central offices be provisioned to permit connection of MLTS equipment for E911 purposes in any accepted industry standard format, as defined by the Commission, requested by the MLTS operator. In connection with this recommendation, the *Second Further Notice* seeks comment on NEC's recommendation that the Commission adopt the ANSI T1.628–2000 ISDN network interface standard as an "accepted industry standard," thereby requiring LECs to enable MLTS operators to use a more efficient means of interfacing with the network than is currently available in most instances. Additionally, the *Second Further Notice* asked parties to comment on whether any rules that the Commission adopts may have a disproportionate impact on small entities and requested comment how it might ameliorate any such impacts.

*F. Federal Rules That Overlap, Duplicate, or Conflict With the Proposed Rules*

36. None.

### III. Ordering Clauses

37. 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 *Report and Order* is hereby adopted.

38. The Commission's Office of Consumer and Government Affairs, Reference Information Center, shall send a copy of this *Report and Order* and *Second Further Notice of Proposed Rulemaking*, including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis,

to the Chief Counsel for Advocacy of the Small Business Administration.

### List of Subjects in 47 CFR Parts 20, 25, 64, and 68

Communications common carriers, satellite communications.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 04–2125 Filed 2–10–04; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018–AI44

#### Endangered and Threatened Wildlife and Plants; Listing the Southwest Alaska Distinct Population Segment of the Northern Sea Otter (*Enhydra lutris kenyoni*) as Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), propose to list the southwest Alaska distinct population segment of the northern sea otter (*Enhydra lutris kenyoni*) as threatened under the authority of the Endangered Species Act of 1973, as amended (Act). Once containing more than half of the world's sea otters, this population segment has undergone a precipitous population decline of at least 56–68 percent since the mid-1980s.

**DATES:** We will consider comments on this proposed rule received until the close of business on June 10, 2004. Requests for public hearings must be received by us on or before April 12, 2004.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments to the Supervisor, U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503.

2. You may hand deliver written comments to our office at the address given above.

3. You may send comments by electronic mail (e-mail) to: [fw7\\_swakseaotter@fws.gov](mailto:fw7_swakseaotter@fws.gov). See the Public Comments Solicited section below for file format and other information about electronic filing.