

permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 30, 2023.

Kerry Drake,

Acting Regional Administrator, Region IX.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[PSHSB: PS Docket No. 23-5; PS Docket No. 15-80; WC Docket No. 18-336; FR ID 133036]

Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline; Rules Concerning Disruptions to Communications; Implementation of the National Suicide Hotline Improvement Act of 2018

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes rules designed to ensure that the Commission and those parties that provide life-saving crisis intervention services to people calling the 988 Suicide & Crisis Lifeline (988 Lifeline), which includes the Veterans Crisis Lifeline, receive timely and actionable information about 988 service outages that potentially affect those services’ ability to meet the immediate health needs of people in suicidal crisis and mental health distress. These proposed rules respond to the 988 Lifeline nationwide network outage in December 2022, which required the Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA) to redirect callers to alternatives means to contact the hotline once it was made aware of the outage.

DATES: Comments are due on or before May 8, 2023, and reply comments are due on or before June 6, 2023. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public and other interested parties on or before June 6, 2023.

ADDRESSES: You may submit comments, identified by PS Docket No. 23-5; PS Docket No. 15-80; and WC Docket No. 18-336, by any of the following methods:

- *Federal Communications Commission’s website:* <https://www.apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to

mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

FOR FURTHER INFORMATION CONTACT: For further information regarding this document, please contact Tara B. Shostek, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418-8130, or by email to Tara.Shostek@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to PRA@fcc.gov or contact Nicole Ongele, Office of Managing Director, Performance Evaluation and Records Management, 202-418-2991, or by email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Notice of Proposed Rulemaking*, FCC 23-7, adopted January 26, 2023, and released January 27, 2023. The full text of this document is available by downloading the text from the Commission’s website at: <https://docs.fcc.gov/public/attachments/FCC-23-7A1.pdf>.

Initial Paperwork Reduction Act of 1995 Analysis

This document may contain potential new or revised information collection requirements. Therefore, we seek comment on potential new or revised collections subject to the Paperwork Reduction Act of 1995. If the Commission adopts any new or revised final information collection requirements when the final rules are adopted, the Commission will publish a notice in the **Federal Register** inviting further comments from the public on the final information collection requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3501-3520). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this document, as required by the PRA. Public and agency comments on the

PRA proposed information collection requirements are due June 6, 2023. 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; (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; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. 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.

I. Notice of Proposed Rulemaking

A. Reporting 988 Special Facility Outages

1. The Commission's rules do not currently require notification when access to the 988 Lifeline is compromised or the 988 Lifeline system experiences an outage. To improve the resiliency of the 988 Lifeline system and ensure the Commission, the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), the Veteran's Administration (VA), and the 988 Lifeline administrator have timely outage information so they can provide the public with alternative ways to access the 988 Lifeline, the document proposes to require providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls to report outages that potentially affect the 988 Lifeline to the Commission's Network Outage Reporting System (NORS). The Commission seeks comment on this proposal.

2. The Commission believes, as in the 911 context, that improving situational awareness of significant network outage issues affecting 988 Lifeline services would provide the Commission (as well as other Federal, state, Tribal, and territorial agencies with public safety responsibilities) with critical insight into the availability and reliability of a vital public health service. In the short term, the Commission expects that these reporting requirements would improve public safety by allowing the

Commission and other agencies to assess the magnitude of major outages and, in the long term, to identify network reliability trends and determine whether the outages likely could have been prevented or mitigated had the service providers followed certain network reliability best practices.

3. The document seeks comment on how it should define the universe of providers that would be subject to this new requirement. The document proposes to define "covered 988 service providers" as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls. Are there additional entities that provide services or functionalities in the 988 call pathway that should be included in the definition of a covered 988 service provider?

4. The document proposes that 988 outage reports be filed with the Commission in NORS, consistent with current outage filing processes. In this regard, the Commission expect that the use of the NORS database will minimize costs to providers of implementation as providers already file outage reports in NORS, and we expect that the vast majority of outages that potentially affect 988 special facilities are already being reported in this system. The Commission also proposes that covered 988 service providers be required to notify the Commission in this regard when the provider experiences a service outage that results in a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process or forward calls for at least 30 minutes and seeks comment on this proposal.

5. In addition to the proposal that covered 988 service providers file outage notifications in NORS, the document seeks comment whether to require cable, satellite, wireless, wireline, and interconnected voice over internet protocol (VoIP) providers (collectively, originating service providers) to report outages that potentially affect the 988 Lifeline to the Commission's NORS. The Commission's existing rules that require the reporting of outages that potentially affect 911 include as outages triggering reporting obligations those that are associated with more general outages as well as those specific to the emergency number. The document seeks comment on whether to adopt a similar requirement for 988. If so, what outage threshold should be considered, *e.g.*, outages impacting the toll free access number lasting at least 30 minutes in duration and potentially affecting at least 900,000 user minutes? Are there any special characteristics of 988 calls that would

make it more effective or efficient for the Commission to adopt alternative outage reporting thresholds that do not resemble the reporting requirements for other communications outages. Do the differences between 911 call routing and 988 Lifeline call routing affect the policy issues around outage reporting by originating service providers?

6. The document seeks comment on whether outages affecting covered 988 texts should be reported, and if they should be reported what thresholds should apply and why? The document asks for specific comments addressing the costs associated with requiring reporting of outages to covered 988 text messages. A covered 988 text message means "a 988 text message in SMS format and any other format that the Wireline Competition Bureau has determined must be supported by covered text providers." 47 CFR 52.201(c)(2). A covered text provider "includes all CMRS providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones." 47 CFR 52.201(c)(3).

7. Is there information that is unique to 988 outages that we should require to be included in an outage report due to its value in understanding the cause or impacts of such an outage? Should the required deadlines for the filing of 988 outage reports be different from the deadlines for filing other types of outage reports? Should the reporting requirements be different for originating service providers that deliver calls to the 988 Lifeline in the first instance versus the covered 988 service provider that handles the call thereafter?

B. Providing Notice of Outages That Potentially Affect 988 Special Facilities

8. The document proposes to require covered 988 service providers to notify 988 special facilities about outages that potentially affect a 988 special facility. The document further proposes that this outage notification obligation mirror our existing 911 special facility notification requirements, as discussed below, and seeks comment on our proposal. Are there any differences between 911 and the 988 Lifeline that would warrant a different approach to 988 special facility notification?

9. *Notification to 988 special facilities.* The document proposes to designate SAMHSA, the VA, and the 988 Lifeline administrator as 988 special facilities that will receive notifications

of outages that potentially affect a 988 special facility and seeks comment on this proposal. The Commission seeks comment on its belief that timely notice of a 988 Lifeline outage will assist SAMHSA, the VA, and the 988 Lifeline administrator to quickly inform the public of alternative ways of contacting the Lifeline while one type of communication is unavailable, such as texting or using the online chat function if calls are not getting through. The Commission does not propose to impose any obligations on SAMHSA or the VA.

10. The document proposes that reliance upon a third-party service provider to manage, route, or otherwise contribute to 988 call processing would not relieve covered 988 service providers of the obligation to provide notification to 988 special facilities under these proposed rules. This is consistent with the Commission's current treatment of 911 notification obligations. The document seeks comment on this approach.

11. In addition to the proposal to require notification by covered 988 service providers, the document seeks comment on whether to require cable, satellite, wireless, wireline, and interconnected VoIP providers to make similar notifications.

12. *Notification to other entities.* The document seeks comment on whether there are additional entities that should receive notice of an outage that potentially affects a 988 special facility. For example, should the local crisis centers to which 988 calls are routed be considered 988 special facilities that should receive 988 outage notifications.

13. The document seeks comment on whether covered 988 service providers should be required to notify originating service providers about 988 outages, enabling originating service providers to voluntarily notify their customers of the outage and alternative ways to obtain crisis assistance. Should originating service providers be required to provide notice to covered 988 service providers of 988 outages? If notice should be required to originating service providers and/or public safety answering points (PSAPs), should the content of the notice be the same or different than the notice 988 special facilities receive? The Commission encourages commenters to address the specific costs and benefits of providing notice to these entities.

14. *Content of 988 notification.* In the 911 context, the Commission determined that PSAPs should receive consistent, timely, and actionable notice of 911 service outages that potentially affect them in order to empower them to lessen the impacts of outages on the provision of emergency services by

rerouting calls or communicating alternatives to the public. The Commission believe that it is similarly important that the information provided during a 988 outage is clear and actionable so that 988 special facilities can make swift judgments as to whether to inform the public about alternative means to contact mental health and suicide prevention services. As required for 911 outages, the document proposes that covered 988 service providers must provide the following material information in their 988 special facility outage notifications:

- An identifier unique to each outage;
- The name, telephone number, and email address at which the notifying service provider can be reached for follow-up;
- The name of the service provider(s) experiencing the outage;
- The date and time when the incident began (including a notation of the relevant time zone);
- The type of communications service(s) affected;
- The geographic area affected by the outage;
- A statement of the notifying service provider's expectations for how the outage potentially affects the 988 special facility (e.g., dropped calls);
- The expected date and time of restoration, including a notation of the relevant time zone;
- The best-known cause of the outage; and
- A statement of whether the message is the notifying service provider's initial notification to the 988 special facility, an update to an initial notification, or a message intended to be the notifying service provider's final assessment of the outage.

The document seeks comment on this proposal. Are there differences between 911 and 988 that would warrant different content requirements for notifications? If we were to adopt rules for originating providers in addition to covered 988 service providers, should we require the same content requirements for notifications?

15. *Means of notification.* The document proposes to require covered 988 service providers to notify 988 special facilities of outages that potentially affect them by telephone and in writing by electronic means and by alternative means if mutually agreed upon in writing in advance by the 988 special facility and the service provider, which is the same manner of notification that originating service providers follow when notifying 911 special facilities of outages that potentially affect them. The Commission seeks comment on its belief

that dual notification will provide the greatest assurance that a 988 special facility, regardless of its size or capability, will receive the outage notification.

16. The document seeks comment on whether there are differences between notifications to 911 special facilities and 988 special facilities that warrant a different form of notification. In addition to the proposal for covered 988 service providers, should the Commission apply similar requirements to originating cable, satellite, wireless, wireline, interconnected VoIP providers?

17. *Maintain contact information.* To better ensure that potentially affected 988 special facilities receive actionable notice about 988 outages, the document proposes to require that covered 988 service providers exercise special diligence to maintain accurate, up-to-date contact information for 988 special facilities, which includes the name and contact information of the person designated by each of these entities to receive notification of 988 outages. "Special diligence" is the diligence expected from a person practicing in a particular field of specialty under circumstances like those at issue. The Commission has imposed this higher level of care in circumstances where a failure to take sufficient care can lead to particularly serious public harms. In these circumstances, "special diligence" would require, for example, actively seeking to confirm the accuracy of contact information and not relying on the absence of a response. Once providers have a 988 special facility contact list in place, special diligence would require them to annually verify the accuracy of their contact list to maintain it up-to-date. The document seeks comment on this proposal. In considering whether the Commission should also designate local crisis centers to be 988 special facilities that are required to receive outage notifications, the document seeks comment on how providers can obtain contact information for these centers. Does SAMHSA or the 988 Lifeline administrator maintain an updated and accurate list of contacts at each of the counseling centers, and could these contacts also be designated to receive notice of 988 Lifeline outages Parties should address the costs that are involved with keeping an up to date contact list. The document seeks comment on whether we should extend this requirement to originating providers, in addition to our proposal for covered 988 service providers.

18. *Timing of initial notification.* The document proposes that covered 988

service providers be required to provide 988 outage notifications to potentially affected 988 special facilities as soon as possible, but no later than within 30 minutes of discovering that they have experienced, on any facilities that they own, operate, lease, or otherwise utilize, an outage that potentially affects a 988 special facility. The document seeks comment on whether this timeframe is appropriate for 988 outage notification and whether the reporting timeframe should be shortened or extended and if so, why.

19. *Follow-up notification.* The document proposes that covered 988 service providers communicate additional material information, which includes, among other information, the date and time when the incident began, the types of communications services affected, the geographic area affected by the outage, how the outage affects the 988 special facility, the expected date and time of restoration, and the best-known cause of the outage, to potentially affected 988 special facilities in notifications subsequent to the initial notification as soon as possible after that information becomes available, but no later than two hours after the initial contact. The document proposes that for outages lasting longer than two hours, covered 988 service providers would be required to continue to follow up with additional material information to 988 special facilities, SAMHSA, the VA, and 988 Lifeline administrator as soon as possible after discovery of the new material information, and continue providing additional material information until the outage is completely repaired and service is fully restored. The document seeks comment on this proposal. The document also seeks comment on whether we should extend this requirement to originating providers.

20. *988 Lifeline Resiliency and Reliability.* The Commission's part 4 rules require covered 911 service providers to annually file 911 reliability certifications, which the Commission has found are necessary to ensure the 911 network remains resilient and robust as the use of the 911 network continues to expand. The Commission seeks comment on whether covered 988 service providers should similarly be required to file 988 reliability certifications to ensure the network supporting the 988 Lifeline remains resilient and robust. Are there other measures or requirements the Commission could adopt that would further improve the resiliency and reliability of the 988 Lifeline?

21. *Legal Authority.* As noted above, in 2020, similar to its prior action with

respect to 911, Congress further amended Section 251 of the Communications Act of 1934 to specify 988 as the universal telephone number for the National Suicide Prevention Lifeline. The proposed reporting and notice rules are intended to ensure the 988 Lifeline remains operational in accordance with the policies identified by Congress in that 2020 legislation and that any outages are quickly identified and reported, with notice provided to parties who would notify the public of alternative means to access crisis counselors, all of which promotes the safety of life and property. The Commission seeks comment on its legal authority to require the 988 outage reporting and 988 special facility notice requirements proposed herein, including its rulemaking authority pursuant to titles II and III of the Communications Act and Section 104 of the Twenty-First Century Communications and Video Accessibility Act (CVAA), as well as its authority under section 4(i) of the Communications Act, as amended, to "perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions" which includes "the purpose of promoting safety of life and property. . . .".

C. Assessing the Benefits and Costs

22. The Commission seek comment on the potential benefits and costs of the proposals addressed in this document. The 988 Lifeline directly benefits people in crisis and saves lives. When the 988 Lifeline is interrupted, people's lives are put into jeopardy. In November 2022, the 988 Lifeline answered 195,083 calls, which is an average of over 6,500 answered calls per day. The Commission believes our proposed outage reporting requirements would improve public safety by providing the Commission and other impacted entities with situational awareness of 988 outages, including the magnitude and causes of those outages, and allow for the identification of network reliability trends that can help identify best practices that could improve network reliability by helping to mitigate future outages. The proposed notice and contact information retention requirements are intended to ensure that when 988 calling is disrupted, parties responsible for the varying aspects of the 988 call pathway notify 988 special facilities, share critical information in a timely and standardized manner, and are motivated to hasten the timely restoration of 988 Lifeline services. The description below shows how even a

very small increase in the speed of restoration of access to 988 Lifeline services could provide benefits that outweigh the costs of adopting the proposed requirements.

23. The benefits of reducing suicide via 988 are driven by suicides' staggering societal costs. In 2020, there were 45,979 deaths by suicide in the United States, which, as noted above, averages out to almost one death every 11 minutes. For every suicide death, there were 4 hospitalizations for suicide attempts, 8 suicide-related emergency department visits, and 27 self-reported suicide attempts. In addition to lives saved, time saving network outage protocols will also alleviate the devastating emotional toll wrought by suicide on victims' families, friends, and communities.

24. Notifying SAMHSA, the VA, and the 988 Lifeline administrator of the disruption of access to 988 Lifeline services should allow these parties to manage the impact of outages on their operations, quickly notify the public of the 988 service outage, and promote alternative ways for people to access 988 Lifeline services while 988 Lifeline service is out, which may include notifying the public of alternative call numbers, or encouraging people to text to 988 or use the <https://988lifeline.org/> link to chat with a crisis management counselor. This, in turn, should enhance the 988 Lifeline's ability to direct scarce resources toward mitigating outages rather than seeking out information to whether an outage is occurring, the scope of such an outage or its impact. The Commission can turn its attention to administering the 988 rules and the providers to fulfilling their service obligations. One of the benefits of implementing short dialing for calls to the Lifeline was to reduce the burdens on 911 and other emergency services arising from calls related to mental health and suicide. The Commission believes that the proposed rules will further reduce the burden on 911 and other emergency services by promoting 988 reliability so that 988 calls go through when callers need 988 service the most. The Commission seek comment on the benefits associated with the proposed rules and whether these requirements will help to preserve the public's continuity of access to the 988 special facilities that support them. Are there any other benefits to public health and safety that arise from our proposed rules that have not been described?

25. The document also seeks comment on the burdens associated with the proposed rules. To the extent that there are 988 outages that are not

currently reported to the Commission, the Commission expects that those would be outages experienced by covered 988 service providers that are responsible for receiving, processing, or forwarding 988 calls. The Commission expect that these service providers are already submitting outage reports to the Commission related to other aspects of their operations, so initial compliance costs would be negligible. Assuming that one covered 988 service provider experiences a maximum of one reportable outage per month, the document estimates an annual compliance cost for that one covered 988 service provider of \$1,000. As a consequence, the Commission expects the actual cost for implementation and compliance of the proposed outage reporting rules will be extremely low, and seeks comment on this analysis.

26. With regard to the proposed requirements to maintain updated contact information for 988 special facilities and to notify those facilities about outages that affect them, the Commission expects that the costs of compliance will also be relatively low when compared to the benefits to the public. The document estimates a one-time industry-wide cost of \$56,000 to create an email survey to biannually solicit 988 special facility contact information. The Commission do not expect any costs arising from the creation or updating of outage notification templates, as the proposed 988 outage notification requirements share the same content and timing as the 911 outage notification requirements with which service providers already comply. The document estimates maximum annually recurring costs of \$1,354,000, which consist of \$1,326,000 for notifying 988 special facilities of outages that potentially affect them pursuant to the standards that we propose in this document and \$28,000 for soliciting appropriate contact information for outage notification from 988 special facilities. The Commission expects that no costs will be incurred related to identifying the 988 special facilities that could potentially be affected by an outage, as the document has proposed that the same three special facilities (SAMHSA, the VA, and the 988 Lifeline administrator) be notified regardless of the geographic area affected by the outage.

27. The document seeks comment on this analysis. How many outages that potentially affect 988 special facilities are estimated to be occurring annually that would be subject to the notification requirements that we propose in this document, and what is the basis for that estimate? In the event that we were to

designate local crisis centers as 988 special facilities, we seek comment on the costs related to the notification of those facilities. Are there steps that can be taken to minimize those costs, such as SAMHSA or the 988 Lifeline administrator agreeing to regularly share updated lists of designated contacts directly with service providers so the local crisis centers do not need to be contacted individually? To what extent have service providers already implemented a notification framework for 911 or other services that would reduce any costs associated with our proposal? The document seeks comment on the extent to which service providers have set up automated triggers for other forms of notifications, whether they may be able to leverage automatic triggers they may already have in place for PSAP notifications, and what costs would be involved.

28. The document seeks comment on additional benefits and costs as well as alternative quantifications of benefits and costs from the proposed rules. The Commission recognizes that it is difficult to quantify the value of continuity of access to 988 service, which includes its capacity to save lives and mitigate and prevent injuries. However, the Commission believe the considerable public safety value of the proposals adopted in this document as described above will exceed the limited costs of implementation, and seeks comment on our assessment. The Commission encourages commenters to quantify both specific costs and benefits that would result from adoption of the proposed notice and reporting requirements.

D. Promoting Digital Equity

29. The Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, the document seeks comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

E. Timelines for Compliance

30. The document proposes to set a compliance date for these proposed rules at the later of (1) 30 days after the Commission issues a Public Notice

announcing that the Office of Management and Budget (OMB) has completed review of any new information collection requirements associated with the adopted Report and Order; or (2) 90 days after the publication of final rules in the **Federal Register**. The Commission believe that the revisions proposed constitute only minor changes to existing procedures and it will take a modest amount of time for covered 988 service providers to adjust their processes to meet the proposed rules because the proposed requirements are closely aligned with the notice and reporting requirements for 911 network outages. The document seeks comment on this assessment. The document also seeks comment on whether allowing additional time for small- and medium-sized businesses to comply with the requirements we propose in this document would serve the public interest.

Initial Regulatory Flexibility Analysis

31. As required by the Regulatory Flexibility Act of 1980, 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 document. 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 document. The Commission will send a copy of this document, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the document and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

32. In this proceeding, the Commission takes steps to improve the reliability and resiliency of telecommunications networks nationwide and 988 Lifeline network specifically, so that the American public can continue to reach the 988 Suicide & Crisis Lifeline (988 Lifeline) without undue delay or disruption. The document seeks comment on 988 Lifeline outage reporting and notification requirements that are similar to the Commission's rules for reporting 911 outages that would be applicable to originating service providers and proposes outage reporting and notification requirements for a new category of "covered 988 service providers." The new "covered 988 service providers" category would be

defined as those providers that provide the 988 Lifeline with capabilities such as the ability to receive, process, or forward calls. Both the originating service providers and the covered 988 service providers would be required to file 988 outage reports with the Commission, in the Commission's Network Outage Reporting System (NORS).

33. The document seeks comment on whether cable, satellite, wireless, wireline, and interconnected VoIP providers should be required to notify 988 special facilities about outages that affect these facilities pursuant to notification obligations that mirror the Commission's existing 911 special facility notification requirements. The document seeks comment on the appropriate threshold to trigger reporting, including whether it should include outages potentially affecting at least 900,000 user-minutes and/or the outage lasts 30 minutes or more, or whether the absence of a call reroute should be a factor. For covered 988 service providers, the document proposes to require these providers notify the Commission of outages resulting in a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process, or forward calls for at least 30 minutes in duration. The document also proposes to designate SAMHSA, the VA, and the 988 Lifeline administrator as the 988 special facilities that must be notified of an outage that potentially affects a 988 facility.

34. Additionally, for covered 988 service providers the document proposes that the 988 outage notification to 988 special facilities include specific content requirements, the means by which notification must be made, the timing to file the initial and follow-up notice, and the filing of an annual verification that a provider's information for 988 special facilities is up to date. Further, in the document we set a proposed compliance deadline of the later of 30 days after the Commission issues a Public Notice announcing that OMB has completed review of any new information collection requirements associated with the final rules adopted in a Report and Order; or (2) 90 days after the publication of final rules in the **Federal Register**. We seek comment on all of the proposals we make in the document, and on the benefits and costs analyses we discuss for the proposals. We also seek comment on applying similar provisions to originating service providers as to notice parameters and implementation timeframes.

35. The Commission believes the significant public safety benefits which

include the capacity to save lives, mitigate, and prevent injuries furthers the public interest and outweighs the implementation costs for service providers if the proposed rules are adopted. Since the 988 outage notification requirements proposed in the document are closely aligned with the existing notice and reporting requirements for 911 network outages, we also believe implementation by cable, satellite, wireless, wireline, interconnected VoIP, and covered 988 service providers will only require minor changes to existing processes and procedures.

B. Legal Basis

36. The proposed action is authorized pursuant Sections 1, 4(i), 4(j), 4(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, and 403, of the Communications Act of 1934, as amended, and sections 3(b) and 6 of the Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(n), 201(b), 214, 218, 251(e)(3), 251(e)(4), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, 403, 615, 615a-1, the National Suicide Hotline Improvement Act of 2018, Public Law 115-233, 132 Stat. 2424 (2018), and the National Suicide Hotline Designation Act of 2020, Public Law 116-271 (2020).

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

37. 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 the Small Business Act." A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

38. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility

analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

39. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

40. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of "small governmental jurisdictions."

41. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA small business size standard for this industry classifies firms with annual receipts less than \$41.5 million

as small. Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year. Of that number, 149 firms operated with revenue of less than \$25 million a year and 44 firms operated with revenue of \$25 million or more. Based on this data, the Commission estimates that a majority of firms in this industry are small.

42. *Cable Companies and Systems (Rate Regulation)*. The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

43. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, contains a size standard for a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 677,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

44. *Incumbent Local Exchange Carriers*. Neither the Commission nor the SBA have developed a small

business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

45. *Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

46. *All Other Telecommunications*. This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes

establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (e.g., dial-up ISPs) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

47. *Satellite Telecommunications*. This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than of these providers can be considered small entities.

48. *Telecommunications Resellers*. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission

facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms operated in this industry for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 811 providers that reported they were engaged in the provision of local or toll resale services. Of these providers, the Commission estimates that 784 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

49. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as "establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

50. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees. Consequently, using the SBA's small

business size standard, most of these providers can be considered small entities.

51. *Wireless Communications Services.* Wireless Communications Services (WCS) can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. Wireless spectrum is made available and licensed for the provision of wireless communications services in several frequency bands subject to part 27 of the Commission's rules. Wireless Telecommunications Carriers (*except Satellite*) is the closest industry with an SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in part 27 of the Commission's rules for the specific WCS frequency bands.

52. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

53. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in

operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

54. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (*except Satellite*). The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 407 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services. Of these providers, the Commission estimates that 333 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

55. *Wireless Carriers and Service Providers.* Wireless Telecommunications Carriers (*except Satellite*) is the closest industry with a SBA small business size standard applicable to these service providers. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated

in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

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

56. The document proposes revisions to outage notification requirements that will impose new or additional reporting, recordkeeping, notice and other compliance requirements on small entities required to report outages affecting 988 Lifeline services. If the rules proposed in the document are adopted, covered 988 service providers would be required to report to the Commission and provide notice to 988 special facilities about outages that potentially affect 988 special facilities. These service providers would be required to: (1) report outages that potentially affect 988 special facilities using NORS, and following processes and procedures similar to the Commission's existing reporting for outages that potentially affect 911; (2) submit notifications, initial reports, and final reports to the Commission consistent with the timing and content requirements proposed in the document, when they experience an outage that potentially affects a 988 special facility; (3) provide notice of 988 outages that potentially affect a 988 special facility to the designated 988 special facilities, including SAMHSA, the VA, and the 988 Lifeline administrator; and (4) make an annual filing verifying that they are maintaining up-to-date contact information for 988 special facilities. The document seeks comment on similar obligations for cable, satellite, wireless, wireline, and interconnected VoIP providers.

57. The Commission is not currently in a position to determine whether, if adopted, the proposed rules in the document will require small entities to hire attorneys, engineers, consultants, or other professionals to comply. We note, however, that some originating service providers and covered 988 service providers are already subject to compliance with outage reporting obligations that would facilitate their ability to comply, and may reduce any

compliance burdens associated with the proposed 988 outage reporting and notification requirements, if adopted. For example, some originating service providers and covered 988 service providers already must comply with the Commission's rules on network outage reporting and 911 outage reporting. In addition, many service providers are likely to already have documented procedures for notifying affected facilities of outages that potentially affect them, and for those that do not, Alliance for Telecommunications Industry Solutions (ATIS) Network Reliability Steering Committee (NRSC) Task Force documents can serve as a useful guide.

58. As discussed in the document, we anticipate that originating service providers are already required to report the vast majority of outages (if not virtually all outages) that prevent 988 calls from successfully completing to the Commission under our existing outage reporting requirements. Therefore we expected small entities who are subject to these requirements will only incur incremental costs to implement the proposed 988 outage reporting requirements. To the extent that there are 988 outages that are not currently reported to the Commission, we expect that those would be outages experienced by covered 988 service providers that are responsible for receiving, processing, or forwarding 988 calls. We expect that these service providers are already submitting outage reports to the Commission related to other aspects of their operations, and anticipate that these providers will likewise only incur incremental costs to comply with the proposed 988 requirements.

59. In the assessment of the potential costs for service providers to report 988 outages to the Commission discussed in the document, we assume that one covered 988 service provider experiences a maximum of one reportable outage per month. We estimate an annual compliance cost of \$1,920 for a provider that experiences a reportable outage based on the estimate that a maximum of two hours total time would be necessary for an employee to prepare and submit all of the required reports to the Commission—15 minutes to complete each notification, a maximum of 45 minutes for each initial report, 60 minutes for each final report, and a labor cost of \$80 per hour for one employee. Based on this assessment. We do not expect the actual cost for implementation and compliance with the proposed outage reporting rules for small entities to be significant, however we have requested comments on our

estimates and assessment. With regard to the proposed requirements for providers to maintain updated contact information for 988 special facilities and to notify those facilities about 988 outages that potentially affect them, we expect the costs of compliance for providers will also be very low and should not be significant for small entities. More specifically, we estimate a one-time total cost of \$50,000 for all providers to create an email survey to biannually solicit 988 special facility contact information. We further estimate maximum annually recurring costs of \$1,283,000, for all providers, consisting of \$1,258,000 for notifying 988 special facilities of outages pursuant to the standards that we propose in this document and \$25,000 to maintain up to date 988 special facility contact information for outage notifications. No costs should be incurred related to identifying the 988 special facilities that could potentially be affected by an outage since we have proposed that the three designated special facilities (SAMHSA, the VA, and the 988 Lifeline administrator) be notified regardless of the geographic area affected by the outage.

60. Based on the above discussion, we do not believe that the costs associated with any of the proposal rule changes in the document will unduly burden small entities. However, we have sought comments from the parties in the proceeding and requested cost and benefit information which may help the Commission identify and evaluate relevant costs and other matters for small entities. We anticipate the proposed rule changes will enable 988 special facilities to accelerate the public's ability to reach the 988 Lifeline during an outage, thereby reducing the probability of lives being lost during such an outage. Moreover, the value of this result and the other public safety benefits generated by our 988 outage notification and reporting requirement proposals outweigh the estimated costs to providers, and therefore is in the public.

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

61. The RFA requires an agency to describe any significant, specifically small business, 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) an exemption from coverage of the rule, or any part thereof, for such small entities.

62. In the document, the Commission continues to facilitate the reliability of the 988 Lifeline network and meet its public safety obligations for oversight of the integrity of the 988 communications infrastructure by proposing measures to ensure that 988 special facilities can expect consistent and timely outage notifications whenever there is an outage that potentially affects 988 Lifeline service. While doing so, the Commission is mindful that small entities and other covered 988 service providers may incur costs should the proposals we make, and the alternatives upon which we seek comment in the document, be adopted.

63. The Commission has taken several steps that could reduce the economic impact for small entities. First, the elements for 988 outage reporting that we propose largely track the same standards applicable to 911 outage reporting. For example, the document proposes to use NORS for 988 outage reporting, which is already used for 911 outage reporting. The document also seeks comment on using the 911 outage duration and user minute thresholds to trigger the 988 outage reporting requirements. Therefore, to the extent small entities have or will implement the 911 outage reporting requirements already adopted by the Commission, compliance with 988 reporting requirements should not impose significant additional costs.

64. We considered whether there are any special characteristics of 988 calls that would make it more effective or efficient for the Commission to adopt alternative outage reporting requirements that do not resemble the reporting requirements for 911 or other communications outages; whether our proposed outage duration and user minute thresholds are appropriate, and whether there may be information that is unique to 988 outages that we should require to be included in an outage report due to its value in understanding the cause or impacts of such an outage, and determined that seeking comment from providers on these issues could provide more comprehensive insight on these issues. In comments, small entities can include any steps that we have not already proposed to prevent the costs of our proposals from being unduly burdensome for them. Small entities can also identify which proposed requirements are particularly difficult or

costly for them, and how different, simplified, or consolidated requirements would address those difficulties, and propose any modifications or exemptions from the proposed requirements discussing the effect of any such modifications on public safety, and the reliability of 988 Lifeline operations. For the alternatives we discuss in the document, or that are subsequently filed in comments, we have requested that commenters address the costs and benefits. We have also sought comment on the costs and benefits of implementing and maintaining the 911 procedures for 988 outage notification and reporting.

65. To increase public awareness of 988 availability and to help protect the public's safety when 988 services are disrupted, we have proposed SAMHSA, the VA, and the 988 Lifeline administrator as the designated 988 special facilities to receive notification of outages. In the document however, we also seek comment on whether there are additional entities that should receive notice, whether covered 988 service providers should give notice to originating service providers when an outage occurs to notify their customers of 988 outages, and whether PSAPs should be notified so they can be prepared for call volume increases. We propose that notifications be made by telephone and in writing by electronic means, and also give providers the flexibility to provide notice by alternative means if mutually agreed upon in writing in advance by the 988 special facility and the provider, as we currently allow covered 911 service providers to do. We believe that this means of communication will not be a very resource intensive or costly method for small entities and other service providers to provide notice. We seek comment on this approach in the document and on requiring other methods of notification, which may identify additional opportunities to reduce costs for small entities and other providers.

66. Next, our actions specifically seeking comment on whether the public interest would be served by allowing additional time for small and medium-sized businesses to comply, could reduce the economic impact for small entities. In doing so, we have provided small entities the opportunity to address whether and how they would benefit from different reporting requirements or timetables that take into account their limited resources; simplification or consolidation of reporting requirements for small entities; or an exemption from any reporting requirements.

67. The Commission expects to consider more fully the economic impact on small entities following its review of any comments filed in response to the document, including any costs and benefits information we receive. The Commission's evaluation of the comments filed in this proceeding will shape the final alternatives we consider, the final conclusions we reach, and any final actions we ultimately take in this proceeding to minimize any significant economic impact that may occur on small entities.

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

68. None.

List of Subjects in 47 CFR Part 4

Airports, Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Proposed Rules

The Federal Communications Commission proposes to amend chapter I of title 47 of the Code of Federal Regulations as follows:

PART 4—DISRUPTIONS TO COMMUNICATIONS

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 47 U.S.C. 34–39, 151, 154, 155, 157, 201, 251, 307, 316, 615a–1, 1302(a), and 1302(b); 5 U.S.C. 301, and Executive Order no. 10530.

■ 2. Section 4.3 is amended by adding paragraph (j) to read as follows:

§ 4.3 Communications providers covered by the requirements of this part.

* * * * *

(j) *Covered 988 service providers* are providers that provide the 988 Suicide & Crisis Lifeline with capabilities such as the ability to receive, process, or forward calls.

■ 3. Section 4.5 is amended by revising the section heading and adding paragraph (f) to read as follows:

§ 4.5 Definitions of outage, special offices and facilities, 911 special facilities, and 988 special facilities.

* * * * *

(f) An outage that potentially affects a 988 special facility occurs whenever there is a loss of the ability of the 988 Suicide & Crisis Lifeline to receive, process, or forward calls for at least 30 minutes duration.

■ 4. Section 4.9 is amended by revising paragraphs (a)(4), (c)(2)(iv), (e)(1)(v), (f)(4), and (g)(1)(i) and adding paragraph (i) to read as follows:

§ 4.9 Outage reporting requirements—threshold criteria.

(a) * * *
(4) Potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

* * * * *

(c) * * *
(2) * * *
(iv) Potentially affecting a 911 special facility (as defined in § 4.5(e)) or potentially affecting a 988 special facility (as defined in § 4.5(f)), in which case the affected facility shall be notified in the manner described in paragraph (h) of this section.

* * * * *

(e) * * *
(1) * * *
(v) That potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section.

* * * * *

(f) * * *
(4) Potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section. Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with all of the requirements of § 4.11.

(g) * * *
(1) * * *
(i) Within 240 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that potentially affects a 911 special facility (as defined in § 4.5(e)) or potentially affects a 988 special facility (as defined in § 4.5(f)), in which case they also shall notify the affected facility in the manner described in paragraph (h) of this section; or

* * * * *

(i) *988 special facility outage notification.* All covered 988 service providers shall notify any official at a 988 special facility who has been designated by the affected special facility as the provider's contact person(s) for communications outages at the facility of any outage that potentially affects that 988 special facility (as defined in § 4.5(f)) in the following manner:

(1) *Appropriate contact information.* To ensure prompt delivery of outage notifications to 988 special facilities, covered 988 service providers shall exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for outage notification for each 988 special facility that serves areas that the service provider serves.

(2) *Content of notification.* Covered 988 service providers' outage notifications must convey all available material information about the outage. For the purpose of this paragraph (i), *material information* includes the following, where available:

- (i) An identifier unique to each outage;
- (ii) The name, telephone number, and email address at which the notifying 988 service provider can be reached for follow up;
- (iii) The name of the covered 988 service provider experiencing the outage;
- (iv) The date and time when the incident began (including a notation of the relevant time zone);
- (v) The types of communications service(s) affected;
- (vi) The geographic area affected by the outage;
- (vii) A statement of the notifying covered 988 service provider's expectations for how the outage potentially affects the special facility (e.g., dropped calls or missing metadata);
- (viii) Expected date and time of restoration, including a notation of the relevant time zone;
- (ix) The best-known cause of the outage; and

(x) A statement of whether the message is the notifying covered 988 service provider's initial notification to the special facility, an update to an initial notification, or a message intended to be the service provider's final assessment of the outage.

(3) *Means of notification.* Covered 988 service providers' outage notifications must be transmitted by telephone and in writing via electronic means in the absence of another method mutually agreed upon in writing in advance by the special facility and the service provider.

(4) *Timing of initial notification.* Covered 988 service providers shall provide an outage notification to a potentially affected 988 special facility as soon as possible, but no later than within 30 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage that potentially affects a 988 special facility (as defined in § 4.5(f)).

(5) *Follow-up notification.* Covered 988 service providers shall communicate additional material information to potentially affected 988 special facilities in notifications subsequent to the initial notification as soon as possible after that information becomes available, but providers shall send the first follow-up notification to potentially affected 988 special facilities no later than two hours after the initial contact. After that, covered 988 service providers are required to continue to provide material information to the special facilities as soon as possible after discovery of the new material information until the outage is completely repaired and service is fully restored.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64

[CG Docket Nos. 02-278, 21-402; FCC 23-21; FR ID 134449]

Targeting and Eliminating Unlawful Text Messages

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether to require terminating mobile wireless providers to block text messages when notified by the Commission that they are likely scams. The Commission also