

Calendar No. 327

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
110-142

IP-ENABLED VOICE COMMUNICATIONS AND
PUBLIC SAFETY ACT OF 2007

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 428



AUGUST 3, 2007.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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IP-ENABLED VOICE COMMUNICATIONS AND PUBLIC SAFETY ACT OF 2007

AUGUST 3, 2007.—Ordered to be printed

Mr. INOUE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 428]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 428) to amend the Wireless Communications and Public Safety Act of 1999, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 428 is to provide authority and guidance to the Federal Communications Commission (FCC) to ensure that 911 and enhanced 911 (E-911) services are made available to consumers of IP-enabled voice services. The bill does not reverse the FCC's actions to date. To ensure the deployment of 911 and E-911 capability, the bill grants IP-enabled voice service providers access to necessary components of the 911 and E-911 network and directs the FCC to issue any new rules as may be necessary to comply with this requirement within 120 days of the date of enactment of the Act. The bill provides IP-enabled 911 and E-911 calls with the same level of liability protection provided to local exchange carriers. The bill also clarifies State authority with respect to fees imposed for the support of 911 or E-911 on IP-enabled voice services. To improve future 911 and E-911 services, a national plan is required for migrating the 911 and E-911 network to an IP-enabled emergency network that would be able to offer additional capabilities.

BACKGROUND AND NEEDS

Dialing 911 is the most effective, efficient, and familiar means for American citizens to call for emergency service. 911 service was first introduced in 1968. Nearly 40 years later, it has been estimated that there are on average over 200 million 911 calls a year. Calls to 911 are typically routed by wireline local exchange carriers (LECs) to public safety answering points (PSAPs) staffed by professionally-trained individuals who assist callers and direct calls to police, fire, and health emergency response providers. There are over 6,000 PSAPs in the United States.

Over the last decade, many PSAPs and 911 systems have been upgraded to facilitate the transmission of E-911 data. E-911 calls provide the PSAP dispatcher with the callback number of the caller as well as the caller's geographic location, even if the caller is unable to speak. As new communications technologies and services have developed, new challenges have arisen in the context of providing 911 and E-911 service, and most recently, have manifested themselves with respect to IP-enabled voice services.

In May 2005, the FCC adopted a Report and Order requiring IP-enabled voice service providers to register a subscriber's location and offer 911 and E-911 service and to provide the appropriate PSAP with location information based on that registered location. IP-enabled voice service providers expressed concern that the FCC had not required access to certain critical components of the E-911 network controlled by incumbent phone companies that are needed to complete 911 and E-911 calls. Additionally, the Order did not extend the liability protections afforded to wireline and wireless for the provision of 911 and E-911 capability to IP-enabled voice service providers in light of the FCC's conclusion that it lacked the authority to provide such equivalent protections. This conclusion raised concerns in both the public safety community and industry and led to calls for legislative action.

At the Executive Session for S. 428, Chairman Inouye and Vice Chairman Stevens offered an amendment in the nature of a substitute making a number of changes including provisions clarifying the FCC's authority to require communications providers to offer 911 services, providing liability protections to IP-enabled voice service providers and providers of emergency communications service, and providing access to the key components of the 911 and E-911 system.

SUMMARY OF PROVISIONS

S. 428, the IP-enabled Voice Communications and Public Safety Act of 2007, aims to improve 911 communications by codifying the obligation of IP-enabled voice service providers to provide 911 and E-911 services and by extending the liability protections enjoyed by wireless carriers and local exchange companies to IP-enabled voice service providers.

The bill would not alter existing obligations imposed by the FCC on IP-enabled voice service providers. The bill would establish an explicit statutory duty obligating IP-enabled voice service providers to offer 911 and E-911 services in accordance with Commission rules, provide such entities with liability protections equivalent to those enjoyed by wireless and local exchange carriers, reaffirm the

authority of States and localities to impose 911 fees on providers of IP-enabled voice service, and advance work currently being done by the E-911 Implementation Coordination Office to develop a national plan for migrating to a national IP-enabled emergency network.

In addition, S. 428 would direct the FCC to compile a list of critical information related to the provisioning of 911 services, including a list of PSAP and selective router contact information. Where appropriate, the FCC would be authorized to make such information available to the public if such availability would improve public safety. S. 428 also would encourage the FCC to work cooperatively with public safety organizations, industry participants, and the E-911 Implementation Coordination Office to develop best practices that promote greater consistency among PSAPs with respect to 911 systems.

Finally, the bill would extend the FCC's general enforcement powers to violations of the Wireless Communications and Public Safety Act of 1999 and order the FCC to remit amounts promised for services by Dale N. Hatfield to complete an update to Mr. Hatfield's 2002 Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services. Mr. Hatfield would be required to submit the update to his report within 60 days of receiving payment.

LEGISLATIVE HISTORY

The IP-Enabled Voice Communications and Public Safety Act of 2007 (S. 428) was introduced by Senator Bill Nelson on January 30, 2007, and referred to the Senate Committee on Commerce, Science, and Transportation. The bill is cosponsored by Senators Clinton, Snowe, and Lautenberg. On April 10, 2007, the Committee held a hearing on "Voice over Internet Protocol and the Future of 911 Services." On April 25, 2007, the Committee considered the bill in an open Executive Session. Chairman Inouye offered an amendment in the nature of a substitute to clarify the FCC's authority, provide liability protection, and provide access to the key components of the 911 and E-911 system. Chairman Inouye, with Senators Nelson and Snowe, also offered a managers' package to the substitute. The substitute and managers' package were both adopted by voice vote. The Committee, without objection, ordered that S. 428 be reported.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 25, 2007.

Hon. DANIEL K. INOUE,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 428, the IP-Enabled Voice Communications and Public Safety Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

*S. 428—IP-Enabled Voice Communications and Public Safety Act of
2007*

Summary: S. 428 would amend current law to require companies offering Voice-over-Internet-Protocol (VoIP) services to provide emergency 911 telephone service. The bill would direct the Federal Communications Commission (FCC) to develop regulations granting VoIP providers access to the network and systems needed to complete 911 or enhanced-911 calls. Enhanced-911 (E-911) service automatically associates a physical address with the calling party's telephone number. The bill also would direct the federal E-911 Implementation Coordination Office to create a plan for a transition to an Internet-based emergency network.

Based on information from the FCC, CBO estimates that implementing the bill would cost about \$1 million over the 2008–2012 period, assuming appropriation of the necessary amounts. CBO expects that enacting the bill would not have a significant effect on revenues and would not affect direct spending.

S. 428 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including limitations on the imposition and use of certain fees that state and local governments can charge VoIP providers. CBO estimates that the costs of those provisions to state, local, and tribal governments would be small; while they would grow over time, they would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

S. 428 would impose private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill would require entities that own 911 components necessary to transmit VoIP emergency 911 services over their networks. CBO estimates that the direct cost of complying with this mandate would be small and fall below the annual threshold for private-sector mandates established by UMRA (\$131 million in 2007, adjusted annually for inflation). The bill also would impose a mandate on certain consumers and third-party users of VoIP services by providing VoIP service providers, users, and PSAPs liability protection against improperly distributed 911 calls. Due to the lack of information about both the value of awards in such cases and the num-

ber of claims that would be filed in the absence of this legislation, CBO cannot predict the level of potential damage awards, if any. Thus, CBO cannot determine whether the aggregate cost of all the mandates in the bill would exceed the annual threshold for private-sector mandates.

Estimated cost to the Federal Government: Under FCC rules, VoIP providers were required to connect their customers to emergency 911 services by November 28, 2005. S. 428 would codify this regulation. The bill also would require the E-911 Implementation Coordination Office to create a plan to create a national 911 communications system that is Internet-based.

Based on information provided by the FCC, CBO estimates that administrative costs for various rulemakings called for in the bill would cost about \$1 million in 2008. We estimate that planning for an Internet-based 911 system would cost less than \$500,000 over the 2008–2012 period.

Enacting S. 428 could increase federal revenues as the result of the collection of additional civil and forfeiture penalties assessed for violations of FCC laws and regulations. Collections of such penalties are recorded in the budget as revenues. CBO estimates that any additional revenues that would result from enacting S. 428 would not be significant because of the relatively small number of cases likely to be involved.

Estimated impact on state, local, and tribal governments: S. 428 contains several intergovernmental mandates as defined in UMRA, including limitations on certain fees that state and local governments impose on providers of VoIP, and a preemption of state liability laws. CBO estimates that the costs of those provisions to state, local, and tribal governments would be small; while they would grow over time, they would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

Limitations on fees

Section 4 would prohibit state, local, and tribal governments from imposing fees on VoIP providers that exceed those imposed on other telecommunications providers. The bill also would require that intergovernmental entities spend 911 fees collected from VoIP providers only for support of emergency communications.

Thirteen states currently levy 911 fees on VoIP providers. Nine of those states impose fees that are lower than or equal to the lowest fee charged to wireless and wireline providers; CBO expects that fees in those states would not be affected by the bill's limitation. One state currently charges a VoIP 911 fee that is higher than the residential wireline fee but lower than the business wireline fee, and presumably that state's fee also would be allowed under this provision. The remaining three states allow local governments to set fees; CBO cannot estimate the extent to which the bill would result in lost fees in those three states because information on the level of local fees is not readily available. CBO believes however, that the costs to state and local governments from the bill's limitation on fees would likely be small because the number of VoIP users in those three states is not likely to be large, and local governments are not likely to levy fees on VoIP users that are

significantly different from those levied on users of other telecommunications services.

It also is possible that some state and local governments would choose in the future to impose such fees at a rate higher than those charged on other telephone services, but CBO has no information upon which to make such an assumption at this time. Most states impose 911 fees on wireline and wireless services that are similar, implying the likelihood that such fees on VoIP also would be similar. In total, CBO estimates that the costs to state and local governments from the bill's limitation on fees, while they might grow over time, would likely be small over the next five years.

In 2005, four states used 911 fees, including wireless and wireline fees, for purposes other than 911 or emergency communications services. Two of those states currently levy 911 fees on VoIP and would be prevented by S. 428 from using those fees for nonemergency communications purposes. One additional state that currently has a 911 fee on VoIP allows counties and local governments to collect and use revenue from 911 fees. CBO cannot estimate the extent to which counties and local governments use that revenue for nonemergency communications purposes because that information is not maintained by the states. CBO believes, however, that the costs to state and local governments from the bill's limitation on the use of fees, while they might grow over time, would likely be small over the next five years.

Preemption of state liability laws and requirements on public safety access points (PSAPs)

Section 3 would preempt state liability laws covering PSAPs and other governmental entities that answer 911 calls connected using VoIP. This provision would give PSAPs, a provider, or a user of VoIP, the same protection from liability claims granted to wireless and wireline entities, and ultimately would benefit intergovernmental entities by protecting them from such claims.

Estimated impact on the private sector: S. 428 contains private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill also would impose a private-sector mandate on certain consumers and third-party users of VoIP services filing claims for injury. The bill would provide VoIP service providers, users, and PSAPs the same liability protection against improperly distributed 911 calls that wireline and wireless providers, users, and PSAPs currently possess. Because the bill would eliminate existing rights to seek compensation for injury caused by negligent acts, it would impose a private-sector mandate. The direct cost of the mandate would be the forgone net value of the awards and settlements in such claims. CBO has found no pending lawsuit with a claim that would be barred if the bill were enacted and has no basis for estimating the number of claims that would be filed in the future in the absence of this legislation. Furthermore, CBO cannot predict the level of potential damage awards in such cases, if any. Thus, CBO cannot estimate the cost of this mandate or whether the cost would exceed the annual threshold established by UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

The bill also would direct FCC to issue new regulations relating to VoIP access to 911 and E-911 infrastructure. The new regula-

tions would impose a new mandate on all private entities that own 911 components necessary to transmit VoIP emergency 911 services over their networks by requiring them to allow VoIP providers to have full access to the necessary 911 components. Although the details of such regulations are not specified in the bill, CBO expects that owners of 911 components would be able to charge VoIP providers a fee for using their network components, but would be mandated to enter into such agreements with those providers. Large private entities that own 911 components have most of the infrastructure in place to comply with the mandate. Some smaller owners of 911 components may not have such capacity and would incur costs to comply with the mandate. Based on information provided by industry sources, CBO expects that the direct costs of complying with this mandate would be minimal.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 428 is intended to extend 911 and E-911 requirements to IP-enabled voice service providers. The bill would affect IP-enabled voice service providers and other entities already subject to 911 and E-911 regulations. Most IP-enabled voice service subscribers either transition from existing voice services for which 911 and E-911 requirements already apply or use IP-enabled voice services in addition to other voice services. While the bill also would extend liability protections in certain circumstances for a new class of service providers known as a alternative emergency communications providers, such protections would not apply until after the FCC requires or the appropriate state or local PSAP authorizes such entity to provide alternative emergency communications services. As such, there would not be a significant increase in the number of persons subject to 911 or E-911 regulations.

ECONOMIC IMPACT

S. 428 would not have an adverse economic impact on the Nation's economy.

PRIVACY

The reported bill would have no impact on the personal privacy of U.S. citizens.

PAPERWORK

The reported bill should not significantly increase paperwork requirements for individuals and businesses.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title is the “IP-Enabled Voice Communications and Public Safety Act of 2007”.

Sec. 2. Duty to provide 911 and E-911 service

Subsection (a) would add a new section 7 to the Wireless Communications and Public Safety Act of 1999. New section 7(a) would impose a statutory duty on IP-enabled voice service providers to provide 911 and E-911 service to their subscribers in accordance with the orders of the FCC in effect on the date of enactment of this Act as such orders may be amended from time to time.

New section 7(b) would provide IP-enabled voice service providers with rights of access to necessary 911 components that are comparable to those enjoyed by wireless carriers. In providing such rights of access, the Commission would take into account any technical network security or privacy issues specific to IP-enabled voice services. The Commission would be required to have IP-enabled voice service providers register and establish a point of contact for public safety and government officials for 911 purposes. The FCC also would have the authority to delegate the enforcement of this subsection to State commissions or other State agencies with jurisdiction over emergency communications.

New section 7(c) would clarify that the Act does not alter existing FCC regulations obligating IP-enabled voice service providers to provide 911 or E-911 service.

New section 7(d) would clarify that the section does not permit the FCC to issue regulations that require or impose a specific technology or technological standard. This section would not limit or otherwise preclude action by the Commission in adopting performance-based standards or requirements.

New section 7(e) would reiterate the FCC’s authority to require other providers of communications services to provide 911 and E-911 service. The Committee believes that this specific authority is consistent with the Commission’s general authority under section 1 of the Communications Act to promote “safety of life and property” through the use of wire and radio communication.

Subsection (b) defines a number of new terms contained in the bill. The term “IP-Enabled Voice Service” would be given the meaning provided by the Commission under 47 C.F.R. 9.3, as that regulation may be amended from time to time. The term “IP-enabled 911 service” would be defined to mean any 911 service provided by an IP-enabled voice service provider, including Enhanced IP-enabled 911 service. The term “Enhanced IP-enabled 911 service” would be defined to mean the enhanced 911 service designated by the Commission in the Report and Order issued in its Wireline Competition Docket Nos. 04-36 and 05-96, or any successor proceeding. The section also includes a definition of “911 component” identifying a descriptive list of elements that, as determined by the Commission, would be necessary to provide 911 services.

Sec. 3. Parity of protection for provision or use of IP-enabled voice service

Subsection (a) would amend section 4 of the Wireless Communications and Public Safety Act of 1999 to extend the liability protections related to the provision of 911 service that currently apply to local exchange companies, wireless carriers, PSAPs, and users of wireless services, to similarly cover IP-enabled voice service providers, alternative communications providers, PSAPs, and users of IP-enabled voice services and alternative emergency communications services.

Subsection (b) would amend section 6 of the Wireless Communications and Public Safety Act of 1999 by adding additional definitions of terms used in amended section 4.

Section 4. State authority of fees

Section 4 would clarify that nothing prevents States, localities, or Indian tribes from imposing or collecting 911 or E-911 fees if the fee is obligated for the support of 911 or E-911 services, enhancements to such services or other emergency communications services as specified in the relevant State or local law and, with respect to IP-enabled voice services, does not exceed the amount imposed on or collected by a provider of telecommunications services. The Committee strongly encourages States and localities to equitably apply 911 fees among communications providers, to the extent possible. In particular, the Committee urges States and localities to study fee structures that accommodate pre-paid telecommunications services.

Section 5. Migration to IP-enabled emergency network

Subsection (a) would amend Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942).

New section (d) would direct the E-911 Implementation Coordination Office to develop and report to Congress on a national plan for migrating to an IP-enabled emergency network within 270 days of the date of enactment of the Act. It would set forth specific requirements as to items that must be included in the migration plan and require the Office to consult with members of the public safety community, groups representing those with disabilities, technology and telecommunications providers, and others as appropriate.

Subsection (b) would authorize the FCC to compile a list of PSAP contact information, testing procedures, classes and types of services supported, or other information concerning necessary 911 components and make that information available to the public if such availability would improve public safety.

Subsection (c) would require the FCC to work cooperatively with public safety organizations, industry participants and the Office to develop best practices that promote consistency, where appropriate, for PSAP procedures.

Sec. 6. Enforcement

Section 6 would direct the FCC to enforce the Wireless Communications and Public Safety Act of 1999 as if it were part of the Communications Act (47 U.S.C. 151 et seq.).

Sec. 7. Completion of the Hatfield Report

Subsection (a) would direct the FCC to remit the amounts promised for services by Dale N. Hatfield in connection with the completion of an update to the Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services filed at the Commission on October 15, 2002, in WT Docket No. 02-46 within 30 days of enactment of the Act.

Subsection (b) would require Mr. Hatfield to submit his written findings as of May 1, 2006, to the FCC within 60 days of receiving the payment described in subsection (a).

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999

[47 U.S.C. 615 et seq.]

SEC. 4. PARITY OF PROTECTION FOR PROVISION OF USE OF WIRELESS SERVICE.

§ 615a. Parity of protection for provision or use of wireless service

(a) PROVIDER PARITY.—A wireless [carrier,] *carrier, IP-enabled voice service provider, or alternative emergency communications service provider*, and [its] *their* officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability in a State of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise) applicable in such State, including in connection with an act or omission involving the release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to [emergency calls or emergency services.] *emergency calls, emergency services, or alternative emergency communications services.*

(b) USER PARITY.—A person using wireless 9-1-1 [service shall] *service, or IP-enabled voice service, shall* have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law in similar circumstances of a person using 9-1-1 service that is not [wireless.] *wireless, IP-enabled, or alternative emergency communications.*

(c) PSAP PARITY.—In matters related to wireless 9-1-1 [communications,] *communications, IP-enabled voice service communications, or alternative emergency communications*, a PSAP, and its employees, vendors, agents, and authorizing government entity (if any) shall have immunity or other protection from liability of a

scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law accorded to such PSAP, employees, vendors, agents, and authorizing government entity, respectively, in matters related to 9–1–1 communications that are not **[wireless.]** *wireless, IP-enabled, or alternative emergency communications.*

(d) BASIS FOR ENACTMENT.—This section is enacted as an exercise of the enforcement power of the Congress under section 5 of the Fourteenth Amendment to the Constitution [USCS Constitution, Amendment 14, § 5] and the power of the Congress to regulate commerce with foreign nations, among the several States, and with Indian tribes.

* * * * *

SEC. 6. DEFINITIONS.

§ 615b. Definitions applicable to 47 USCS §§ 615, 615 note, 615a, and 615b

As used in this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(2) STATE.—The term “State” means any of the several States, the District of Columbia, or any territory or possession of the United States.

(3) PUBLIC SAFETY ANSWERING POINT; PSAP.—The term “public safety answering point” or “PSAP” means a facility that has been designated to receive 9–1–1 calls and route them to emergency service personnel.

(4) WIRELESS CARRIER.—The term “wireless carrier” means a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless 9–1–1 service.

(5) ENHANCED WIRELESS 9–1–1 SERVICE.—The term “enhanced wireless 9–1–1 service” means any enhanced 9–1–1 service so designated by the Federal Communications Commission in the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 9–1–1 Emergency Calling Systems” (CC Docket No. 94–102; RM–8143), or any successor proceeding.

(6) WIRELESS 9–1–1 SERVICE.—The term “wireless 9–1–1 service” means any 9–1–1 service provided by a wireless carrier, including enhanced wireless 9–1–1 service.

(7) EMERGENCY DISPATCH PROVIDERS.—The term “emergency dispatch providers” shall include governmental and nongovernmental providers of emergency dispatch services.

(8) IP-ENABLED VOICE SERVICE.—The term “IP-enabled voice service” has the meaning given that term by section 9.3 of the Commission’s regulations (47 C.F.R. 9.3), as those regulations may be amended by the Commission from time to time.

(9) IP-ENABLED 9–1–1 SERVICE.—The term “IP-enabled 9–1–1 service” means any 9–1–1 service provided by an IP-enabled voice service provider, including enhanced IP-enabled 9–1–1 service.

(10) ENHANCED IP-ENABLED 9–1–1 SERVICE.—The term “enhanced IP-enabled 9–1–1 service” means any enhanced 9–1–1 service so designated by the Federal Communications Commis-

sion in its Report and Order in WC Docket Nos. 04–36 and 05–196, or any successor proceeding.

(11) 911 COMPONENT.—The term “911 component” means any equipment, network, databases (including automatic location information databases and master street address guides), interface, selective router, trunkline, non-dialable p-ANI’s, or other related facility necessary for the delivery and completion of 911 or E-911 calls and information related to such calls, as determined by the Commission.

(12) ALTERNATIVE EMERGENCY COMMUNICATIONS SERVICE.—The term “alternative emergency communications service” means the provision of emergency information to a public safety answering point via wire or radio communications, and may include 9–1–1 and enhanced 9–1–1 Services.

(13) ALTERNATIVE EMERGENCY COMMUNICATIONS SERVICE PROVIDER.—The term “alternative emergency communications service provider” means an entity other than a local exchange carrier, wireless carrier, or an IP-enabled voice service provider that is required by the Commission or, in the absence of any such requirement, is specifically authorized by the appropriate local or State 9–1–1 governing authority, to provide alternative emergency communications services.

SEC. 7. IP-ENABLED VOICE SERVICE PROVIDERS.

(a) *IN GENERAL.*—It shall be the duty of every IP-enabled voice service provider engaged in interstate or foreign communication to provide 9–1–1 service, including enhanced 9–1–1 service, to its subscribers in accordance with orders of the Commission in effect on the date of enactment of the IP-Enabled Voice Communications and Public Safety Act of 2007, as such orders may be modified by the Commission from time to time.

(b) *ACCESS TO 911 COMPONENTS.*—

(1) *REGULATIONS.*—Within 90 days after the date of enactment of the IP-Enabled Voice Communications and Public Safety Act of 2007, the Commission shall issue regulations granting IP-enabled voice service providers right of access to 911 components that are necessary to provide 911 service, on the same rates, terms, and conditions that are provided to commercial mobile service providers. In promulgating the regulations, the Commission shall take into account any technical, network security, or information privacy issues that are specific to IP-enabled voice services, including the security of 9–1–1 networks. The Commission shall require IP-enabled voice service providers to which the regulations apply to register with the Commission and to establish a point of contact for public safety and government officials relative to 9–1–1 service and access.

(2) *DELEGATION OF ENFORCEMENT TO STATE COMMISSIONS.*—The Commission may delegate authority to enforce the regulations issued under paragraph (1) to State commissions or other State agencies or programs with jurisdiction over emergency communications.

(c) *SAVINGS CLAUSE.*—Nothing in the IP-Enabled Voice Communications and Public Safety Act of 2007 shall be construed as repealing or otherwise altering, modifying, affecting, or superseding Federal regulations obligating an IP-enabled voice service provider to provide 9–1–1 service or enhanced 9–1–1 service.

(d) *LIMITATION ON COMMISSION.*—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

(e) *FCC AUTHORITY TO REQUIRE 911 SERVICE.*—The Federal Communications Commission is authorized to require other providers of communications services using wire or radio communication in interstate or foreign commerce to provide 911 service, including enhanced 911 service, to users for the purpose of promoting safety of life and property.”.

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION ORGANIZATION ACT

[47 U.S.C. 942]

SEC. 158. COORDINATION OF E-911 IMPLEMENTATION.

§ 942. Coordination of E-911 implementation

(a) **E-911 IMPLEMENTATION COORDINATION OFFICE.**—

(1) **ESTABLISHMENT.**—The Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration shall—

(A) establish a joint program to facilitate coordination and communication between Federal, State, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of E-911 services; and

(B) create an E-911 Implementation Coordination Office to implement the provisions of this section.

(2) **MANAGEMENT PLAN.**—The Assistant Secretary and the Administrator shall jointly develop a management plan for the program established under this section. Such plan shall include the organizational structure and funding profiles for the 5-year duration of the program. The Assistant Secretary and the Administrator shall, within 90 days after the date of enactment of this Act [enacted Dec. 23, 2004], submit the management plan to the Committees on Energy and Commerce and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

(3) **PURPOSE OF OFFICE.**—The Office shall—

(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve such coordination and communication;

(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of E-911 services;

(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

(4) REPORTS.—The Assistant Secretary and the Administrator shall provide a joint annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of E-911 services.

(b) PHASE II E-911 IMPLEMENTATION GRANTS.—

(1) MATCHING GRANTS.—The Assistant Secretary and the Administrator, after consultation with the Secretary of Homeland Security and the Chairman of the Federal Communications Commission, and acting through the Office, shall provide grants to eligible entities for the implementation and operation of Phase II E-911 ~~services.~~ *services, and for migration to an IP-enabled emergency network.*

(2) MATCHING REQUIREMENT.—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 50 percent. The non-Federal share of the cost shall be provided from non-Federal sources.

(3) COORDINATION REQUIRED.—In providing grants under paragraph (1), the Assistant Secretary and the Administrator shall require an eligible entity to certify in its application that—

(A) in the case of an eligible entity that is a State government, the entity—

(i) has coordinated its application with the public safety answering points (as such term is defined in section 222(h)(4) of the Communications Act of 1934) located within the jurisdiction of such entity;

(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of E-911 services, except that such designation need not vest such coordinator with direct legal authority to implement E-911 services or manage emergency communications operations;

(iii) has established a plan for the coordination and implementation of E-911 services; and

(iv) has integrated telecommunications services involved in the implementation and delivery of phase II E-911 services; or

(B) in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.

(4) CRITERIA.—The Assistant Secretary and the Administrator shall jointly issue regulations within 180 days after the date of enactment of the ENHANCE 911 Act of 2004 [enacted Dec. 23, 2004], after a public comment period of not less than 60 days, prescribing the criteria for selection for grants under this section, and shall update such regulations as necessary. The criteria shall include performance requirements and a timeline for completion of any project to be financed by a grant under this section.

(c) DIVERSION OF E-911 CHARGES.—

(1) DESIGNATED E-911 CHARGES.—For the purposes of this subsection, the term “designated E-911 charges” means any taxes, fees, or other charges imposed by a State or other taxing

jurisdiction that are designated or presented as dedicated to deliver or improve E-911 services.

(2) CERTIFICATION.—Each applicant for a matching grant under this section shall certify to the Assistant Secretary and the Administrator at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary and the Administrator annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated E-911 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

(3) CONDITION OF GRANT.—Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, all of the funds from such grant shall be returned to the Office.

(4) PENALTY FOR PROVIDING FALSE INFORMATION.—Any applicant that provides a certification under paragraph (1) knowing that the information provided in the certification was false shall—

(A) not be eligible to receive the grant under subsection (b);

(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

(C) not be eligible to receive any subsequent grants under subsection (b).

(d) MIGRATION PLAN REQUIRED.—

(1) NATIONAL PLAN REQUIRED.—*No more than 270 days after the date of the enactment of the IP-Enabled Voice Communications and Public Safety Act of 2007, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications and improving information sharing among all emergency response entities.*

(2) CONTENTS OF PLAN.—*The plan required by paragraph (1) shall—*

(A) outline the potential benefits of such a migration;

(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

(C) provide specific mechanisms for ensuring the IP-enabled emergency network is available in every community and is coordinated on a local, regional, and Statewide basis;

(D) identify location technology for nomadic devices and for office buildings and multi-dwelling units;

(E) include a proposed timetable, an outline of costs and potential savings;

(F) provide specific legislative language, if necessary, for achieving the plan;

(G) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network;

(H) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of the IP-Enabled Voice Communications and Public Safety Act of 2007;

(I) document solutions that a national IP-enabled emergency network will provide for 9-1-1 access to those with disabilities and needed steps to implement such solutions, including a recommended timeline for such implementation; and

(J) analyze technologies and efforts to provide automatic location capabilities and provide recommendations on needed regulatory or legislative changes necessary to implement automatic location solutions for 911 purposes.

(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, groups representing those with disabilities, technology and telecommunications providers, and others it deems appropriate.

[(d)] (e) AUTHORIZATION; TERMINATION.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Department of Transportation, for the purposes of grants under the joint program operated under this section with the Department of Commerce, not more than \$ 250,000,000 for each of the fiscal years 2005 through 2009, not more than 5 percent of which for any fiscal year may be obligated or expended for administrative costs.

(2) TERMINATION.—The provisions of this section shall cease to be effective on October 1, 2009.

[(e)] (f) DEFINITIONS.—As used in this section:

(1) OFFICE.—The term “Office” means the E-911 Implementation Coordination Office.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Highway Traffic Safety Administration.

(3) ELIGIBLE ENTITY.—

(A) IN GENERAL.—The term “eligible entity” means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1))).

(B) INSTRUMENTALITIES.—Such term includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide E-911 services.

(C) EXCEPTION.—Such term does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

(4) E-911 SERVICES.—The term “E-911 services” means both phase I and phase II enhanced 911 services, as described in section 20.18 of the Commission’s regulations (47 C.F.R. 20.18), as in effect on the date of enactment of the ENHANCE 911 Act of 2004 [enacted Dec. 23, 2004], or as subsequently revised by the Federal Communications Commission.

(5) PHASE II E-911 SERVICES.—The term “phase II E-911 services” means only phase II enhanced 911 services, as described in such section 20.18 (47 C.F.R. 20.18), as in effect on such date, or as subsequently revised by the Federal Communications Commission.

(6) STATE.—The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

