



PUBLIC NOTICE

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON THE
LEGAL AND STATUTORY FRAMEWORK FOR NEXT GENERATION 9-1-1 SERVICES
PURSUANT TO THE NEXT GENERATION 9-1-1 ADVANCEMENT ACT OF 2012**

PS Docket No. 10-255, PS Docket No. 11-153, PS Docket No. 12-333

COMMENTS DUE: December 13, 2012

REPLY COMMENTS DUE: January 14, 2013

On February 22, 2012, Congress enacted the Next Generation 9-1-1 Advancement Act of 2012 as part of the Middle Class Tax Relief and Job Creation Act of 2012.¹ Section 6509 of the Act directs the Commission to issue a report, within one year of enactment, containing recommendations for the legal and statutory framework for Next Generation 9-1-1 (NG9-1-1) services.² Specifically, section 6509 states:

**SEC. 6509. COMMISSION RECOMMENDATIONS FOR LEGAL AND STATUTORY
FRAMEWORK FOR NEXT GENERATION 9-1-1 SERVICES.**

Not later than 1 year after the date of the enactment of this Act, the Commission, in coordination with the Secretary of Homeland Security, the Administrator of the National Highway Traffic Safety Administration, and the Office,³ shall prepare and submit a report to Congress that contains recommendations for the legal and statutory framework for Next Generation 9-1-1 services, consistent with recommendations in the National Broadband Plan developed by the Commission pursuant to the American Recovery and Reinvestment Act of 2009, including the following:

- (1) A legal and regulatory framework for the development of Next Generation 9-1-1 services and the transition from legacy 9-1-1 to Next Generation 9-1-1 networks.

¹ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96 (2012), Title VI, Subtitle E (Next Generation 9-1-1 Advancement Act or Act).

² *Id.* § 6509.

³ The “Office” referred to in the Act is the National E9-1-1 Implementation Coordination Office (ICO). ICO is jointly managed by the Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) and the Department of Commerce’s National Telecommunications and Information Administration (NTIA).

(2) Legal mechanisms to ensure efficient and accurate transmission of 9–1–1 caller information to emergency response agencies.

(3) Recommendations for removing jurisdictional barriers and inconsistent legacy regulations including—

(A) proposals that would require States to remove regulatory roadblocks to Next Generation 9–1–1 services development, while recognizing existing State authority over 9–1–1 services;

(B) eliminating outdated 9–1–1 regulations at the Federal level; and

(C) preempting inconsistent State regulations.⁴

To assist the Commission in developing the recommendations to Congress that will be included in the report, the Public Safety and Homeland Security Bureau seeks comment on the issues discussed below.

I. Legal and Regulatory Framework for the Development of NG9-1-1 Services and the Transition from Legacy 9-1-1 Networks to NG9-1-1

Section 6509(1) of the Act states that the report shall include recommendations regarding a “legal and regulatory framework for the development of Next Generation 9–1–1 services and the transition from legacy 9–1–1 to Next Generation 9–1–1 networks.”⁵ The legacy 9-1-1 system is comprised of approximately 6,800 Public Safety Answering Points (PSAPs); myriad governance structures that vary across state, county, and local jurisdictions; a number of service providers; and funding mechanisms that differ across jurisdictional boundaries. In light of the variation in state-level approaches to legacy 9-1-1, we seek comment on the ability of states to effectively coordinate the transition to NG9-1-1, and whether the Commission should recommend that Congress create incentives or requirements for such coordination at the state or regional level. More specifically, we seek comment on the following:

- Should Congress create requirements or incentives for states to establish NG9-1-1 oversight bodies at the state or regional level?
- Should each state or region designate an organization to be responsible for planning, coordinating, and implementing the NG9-1-1 system in that particular state or region?
- Should state or regional oversight bodies have control over the funding of NG9-1-1 services?
- Would the formation of state or regional oversight bodies better ensure adherence to a standardized architecture that facilitates greater levels of functionality?

⁴ Next Generation 9-1-1 Advancement Act § 6509.

⁵ *Id.* § 6509(1).

- Would state or regional oversight bodies enable PSAPs to procure equipment and software at lower costs?

In the Commission’s NG9-1-1 proceeding, several state agencies advocated that the federal government play a role in overseeing the deployment of NG9-1-1 services.⁶ To that end, we seek comment on what role the federal government should play in NG9-1-1 oversight, and whether the Commission should recommend that Congress enact legislation defining the federal government’s role. More specifically, we seek comment on the following:

- To the extent that the federal government is involved in NG9-1-1 oversight, what role should specific federal agencies play, including the Commission, NHTSA, NTIA, and DHS?
- Should a single federal entity be established or designated to oversee the transition to NG9-1-1, and/or to ensure compliance with required standards, coordination, implementation, and policies?
- Should a specific federal agency or agencies be responsible for establishing national policy to ensure consistent regulation of NG9-1-1?
- Should a specific federal agency or agencies be responsible for enabling and initiating the development and deployment of shared state-wide Emergency Services IP Networks (ESInets) and related cooperative working agreements between federal, state, tribal, and local agencies?⁷
- What functions and responsibilities should be performed at the federal, regional, state, Tribal, and local levels in the implementation, transition to, and ongoing operation of NG9-1-1 in areas including networks, NG9-1-1 functional elements, databases, system operation, and PSAP operation?
- What statutory or regulatory changes, if any, would be necessary for the Commission, other federal agencies, states, Tribes, or localities to facilitate and oversee NG9-1-1?
- What is the feasibility of deploying a national NG9-1-1 infrastructure that would allow PSAPs to connect to a nationwide ESInet, prior to the deployment of statewide or regional ESInets? Should Congress take action to promote the development of such a national NG9-1-1 infrastructure?

Section 6506 of the Act extends liability protection to providers of NG9-1-1 service by stating that “a provider or user of Next Generation 9-1-1 services...shall have immunity and protection from liability under Federal and State law [to the extent provided under section 4 of the Wireless Communications and Public Safety Act of 1999],” with respect to “the release of subscriber information

⁶ See Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications, *Notice of Proposed Rulemaking*, 26 FCC Rcd 13615, 13661 ¶¶ 115-116 (2011) (*NG9-1-1 NPRM*) (noting that PSCO – California Technology Agency and the PUC of Ohio favored a national approach). See also PSCO – California Technology Agency Comments to *NG9-1-1 NPRM* at 7 (“recommend[ing]” that “the Commission confirm, adopt, and provide guidance to the States and localities on essential statutory and regulatory changes necessary to successfully deploy NG9-1-1.”); Texas 9-1-1 Alliance Reply Comments to *NG9-1-1 NPRM* at 7-12.

⁷ ESInets are defined in NENA Functional and Interface Standards for Next Generation 9-1-1 Version 1.0 (i3).

related to emergency calls or emergency services,” “the use or provision of 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services,” and “other matters related to 9-1-1 services E9-1-1 services, or Next Generation 9-1-1 services.”⁸ In the Commission’s NG9-1-1 proceeding, many commenters noted (prior to the promulgation of Section 6509) that the deployment of NG9-1-1 services may raise liability concerns for both PSAPs and commercial providers and that liability protections may therefore need to be modified in an NG9-1-1 environment.⁹ In addition, some commenters have argued that federal law requiring parity in state law protection does not adequately protect CMRS providers in implementing NG9-1-1 because the scope of underlying liability protection is dictated by state law and varies from state to state.¹⁰ Accordingly, we seek comment on whether the Commission should recommend that Congress take further steps to provide for liability protection to promote the development of NG9-1-1, including but not limited to the issues below.

- Does existing law provide the Commission with authority to provide adequate liability protection to NG9-1-1 providers, including carriers, vendors, and PSAPs?
- Should Congress take steps to further encourage or require states to extend liability protection to 9-1-1 and NG9-1-1 services?
- Should Congress provide direct liability protection for NG9-1-1 services at the federal level?

Current funding mechanisms for the 9-1-1 system rely primarily on surcharges on telephone bills and therefore may not adequately account for new services that offer emergency communications in a NG9-1-1 environment. We seek comment on whether the Commission should recommend that Congress take steps to ensure that 9-1-1 funding mechanisms are technologically neutral so that the funding obligation does not disproportionately burden certain types of services over others.

- Should Congress authorize or require 9-1-1 fee contributions by all service providers and not just those providing network access?
- For example, when a VoIP application or other IP-enabled service is operating over a

⁸ NG 9-1-1 Advancement Act § 6506.

⁹ See, e.g., following comments to the Notice of Inquiry (NOI) in the Commission’s NG9-1-1 proceeding: TCS NOI Comments at 17; PlantCML NOI Comments at 3; Sprint Nextel NOI Comments at 8; L3 NOI Comments at 25; VON Coalition NOI Comments at 5; NENA NOI Comments at 31; CTIA NOI Comments at 10-11; AT&T NOI Comments at 25-26; L.R. Kimball NOI Comments at 20-21; Motorola NOI Comments at 5-6; Bandwidth.com NOI Reply Comments at 7 (commenters asserting that the lack of express liability protection for NG9-1-1 has hindered the deployment of NG9-1-1 networks). See also Sprint Nextel NOI Comments at 8; CTIA NOI Comments at 10-11; AT&T NOI Comments at 25-26; Motorola NOI Comments at 5-6 (commenters contending that liability protection is essential to extend 9-1-1 requirements to include text). See Framework for Next Generation 911 Deployment, PS Docket No. 10-255, Notice of Inquiry, 25 FCC Rcd 17869 (2010). See generally NENA, *Next Generation 9-1-1 Transition Policy Implementation Handbook, A Guide for Identifying and Implementing Policies to Enable NG9-1-1*, at 21-23 (Mar. 2010), available at http://c.yimcdn.com/sites/www.nena.org/resource/resmgr/ngpp/ng911_transition_policy_impl.pdf?hhSearchTerms=Transition+and+Handbook (last visited Oct. 26, 2012).

¹⁰ See, e.g., Motorola NOI Comments at 6; AT&T Comments to *NG9-1-1 NPRM* at 22-23.

commercial wireless network, should the VoIP or IP-enabled service provider contribute to the 9-1-1 fund?

II. Legal Mechanisms for Ensuring Efficient and Accurate Transmission of 9-1-1 Caller Information to Emergency Response Agencies

Section 6509(2) of Act provides that the report shall also make recommendations regarding “[l]egal mechanisms to ensure efficient and accurate transmission of 9–1–1 caller information to emergency response agencies.”¹¹ We seek comment on whether the Commission should recommend that Congress authorize or implement any specific legal mechanisms to ensure the transmission of efficient and accurate 9-1-1 caller information to PSAPs. More specifically, we seek comment on the following:

- Should Congress enact legislation to require or incentivize the development of technologies that provide more accurate and efficient transmission of 9-1-1 caller information in an NG9-1-1 environment?
- Should Congress authorize the Commission or another federal agency to measure accuracy and efficiency of 9-1-1 caller information in an NG9-1-1 environment?
- Are there other mechanisms that would improve data collection in an NG9-1-1 environment? For example, should the Commission collect additional data about NG9-1-1 capabilities in its PSAP database that the Public Safety and Homeland Security Bureau maintains?

III. Recommendations for Removing Jurisdictional Barriers and Inconsistent Legacy Regulations

Section 6509(3) of Act states that the report shall include recommendations regarding “removing jurisdictional barriers and inconsistent legacy regulations.”¹² We seek comment on whether the Commission should recommend that Congress act to encourage or require the removal of such jurisdictional barriers and inconsistent regulations. More specifically we seek comment on the issues below:

A. Removal of State Regulatory Roadblocks to NG9-1-1 Services Development

Section 6509(3)(A) of Act seeks recommendations on “proposals that would require States to remove regulatory roadblocks to Next Generation 9–1–1 services development, while recognizing existing State authority over 9–1–1 services.”¹³ We seek comment on existing state laws and regulations that could hinder the development of NG9-1-1 services, and whether the Commission should recommend that Congress act to require states to remove such laws and regulations. More specifically, we seek comment on the following:

¹¹ Next Generation 9-1-1 Advancement Act § 6509(2).

¹² *Id.* § 6509(3).

¹³ *Id.* § 6509(3)(A).

- In the legacy 9-1-1 system, incumbent local exchange carriers are typically the primary 9-1-1 System Service Provider (SSPs). However, in an NG9-1-1 environment, there are likely to be multiple SSPs offering a variety of service capabilities and options. Are there existing state approval processes and certification requirements for SSPs that are outdated or overly burdensome?
- Should Congress enact legislation to encourage or require states to update or streamline their SSP certification processes to facilitate certification of NG9-1-1 SSPs?
- Should Congress facilitate the authorization by states of public safety entities to act directly as NG9-1-1 SSPs?
- Are disparate cost recovery mechanisms for originating 9-1-1 traffic and varying interconnection requirements impeding the deployment of NG9-1-1 services?
- Do incumbent 9-1-1 SSPs have sufficient incentives to upgrade their technology to support NG9-1-1 absent regulatory change at the state level?
- Should Congress encourage or require existing state regulations, laws, or tariffs to be modified to ensure that 9-1-1 governing authorities or new 9-1-1 SSPs are entitled to receive relevant routing, location, and other related 9-1-1 information at reasonable rates and terms?

B. *Elimination of Outdated Federal 9-1-1 Regulations*

Section 6509(3)(B) of Act seeks recommendations on “eliminating outdated 9–1–1 regulations at the Federal level.”¹⁴ We seek comment on whether there are specific federal regulations, including but not limited to Commission regulations, that may inhibit the development of NG9-1-1 services, and what actions are needed to modify or eliminate such regulations. More specifically, we seek comment on the following:

- Are there existing Commission 9-1-1 regulations that may inhibit the development and deployment of NG9-1-1 services? Should the Commission modify or eliminate such regulations on its own authority?
- Are there any regulations of other Federal agencies that may inhibit the deployment of NG9-1-1 services? Should the Commission recommend that these agencies modify or eliminate such regulations?
- Is Congressional action needed to modify or eliminate outdated federal regulation? Are there specific actions that the Commission should recommend Congress take?

C. *Preemption of Inconsistent State Regulations*

Section 6509(3)(C) of Act seeks recommendations on “preempting inconsistent State regulations.”¹⁵ We seek comment on the degree to which existing federal law preempts or authorizes the Commission to preempt state regulations that could inhibit the development and deployment of NG9-1-1.

¹⁴ *Id.* § 6509(3)(B).

¹⁵ *Id.* § 6509(3)(C).

We also seek comment on whether the Commission should recommend that Congress enact legislation to expand the scope of any federal preemption, including but not limited to the following:

- Should Congress enact legislation that expressly empowers the Commission or any other federal agency to preempt state regulations that could inhibit the development and deployment of NG9-1-1? If so, how should the scope of the Commission's or other agency's preemptive authority be defined?
- Should Congress enact legislation that expressly preempts state regulation that could inhibit the development and deployment of NG9-1-1? If so, how should the scope of statutory preemption be defined?

IV. Filing Instructions

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments in the above-captioned dockets and on or before the dates indicated on the first page of this document. Comments may be filed the using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: 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 hand or messenger delivery, 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.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
 - People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁶ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

For further information, please contact Patrick Donovan, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-2413 or by email: patrick.donovan@fcc.gov, or David Siehl, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-1313 or by email: david.siehl@fcc.gov.

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¹⁶ 47 C.F.R. § 1.1200 *et seq.*