



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-284047

November 9, 1999

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Wireless Radio Services;
Compatibility with Enhanced 911 Emergency Calling Systems

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission, entitled "Wireless Radio Services; Compatibility with Enhanced 911 Emergency Calling Systems" (CC Docket No. 94-102; FCC 99-245). We received the rule on October 29, 1999. It was published in the Federal Register as a final rule on November 4, 1999. 64 Fed. Reg. 60126.

The final rule permits wireless carriers the use of handset-based solutions, or hybrid solutions that require changes both to handsets and wireless networks in providing caller location information as part of Enhanced 911 (E911) services.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Judy England-Joseph,

Director, Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Sincerely yours,

**Robert P. Murphy
General Counsel**

Enclosure

**cc: Ms. Diane Cornell
Associate Chief, Wireless
Telecommunications Bureau
Federal Communications Commission**

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"WIRELESS RADIO SERVICES; COMPATIBILITY WITH
ENHANCED 911 EMERGENCY CALLING SYSTEMS"
(CC DOCKET NO. 94-102; FCC 99-245)

(i) Cost-benefit analysis

The FCC, in its report to our Office, states that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared an Initial Regulatory Flexibility Analysis in connection with the Notice of Proposed Rulemaking and a Final Regulatory Flexibility Analysis in issuing the final rule.

The analyses comply with the requirements of the Regulatory Flexibility Act, including the number and description of the small entities affected by the rule, the steps taken to minimize the burdens on small entities, and the alternatives that were considered.

While the FCC foresees limited negative effects on small entities, it believes these will be offset by the flexibility that will be provided in allowing the use of handset-based technology in complying with the E911 regulations.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comments procedures contained at 5 U.S.C. 553. The FCC published a Notice of Proposed Rulemaking in the Federal Register on August 2, 1996 (61 Fed. Reg. 40348) and a Further Notice on June 11, 1999 (64 Fed. Reg. 31530).

The FCC received 59 comments and reply comments to the later notice which are responded to in the Commission's Order.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection which is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

The preamble to the final rule contains the information required by the Act, which was submitted to OMB for approval.

FCC estimates the annual burden on the 4,000 respondents to be 1 hour per response with an initial one time filing cost of \$400,000. In addition, the FCC estimates that each respondent will file one additional report for a total burden of \$800,000.

Statutory authorization for the rule

The final rule was issued pursuant to the authority contained in sections 1, 4(i), 201, 303, 309, and 332 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i), 201, 303, 309, and 332.

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.