

support, several small carriers filed comments also challenging the decision on a procedural basis, arguing that the decision contravenes the provisions of the RFA because it does not take account of, and attempt to reduce, the disproportionate burdens placed on small and rural carriers. These smaller carriers maintain that, in order to minimize the danger of unnecessary economic outlay on small carriers, the Commission should impose an actual-readiness requirement on PSAPs operating in areas where rural, small and mid-sized carriers do not have a large customer base to absorb their E911 implementation costs and are thus more vulnerable to delays in implementation caused by a PSAP's inability to receive and utilize the E911 data supplied by the carrier. The Commission is aware of the concerns of small and mid-sized rural carriers and discussed these concerns in the FRFA. However, as the Commission has iterated throughout this proceeding, any failure in E911 communications, regardless of whether the carrier is small or large, or whether the carrier has a large customer base or small, can result in tragedy. Nonetheless, the Commission has tried wherever possible to ease the regulatory burden in this proceeding on small entities. The Commission's phased-in approach to E911 implementation is an example of this desire to accommodate the needs of small entities where it does not compromise our commitment to the goals of this proceeding.

14. The FRFA addresses the issue of whether to adopt an actual-readiness requirement on PSAPs and finds that the readiness showing adopted in the Order "will in fact reduce the vulnerability of the smaller carriers, as they will be working along with the PSAPs to ensure implementation of E911 service on a timely basis, and will better be able to plan their progression and allocation of resources during the implementation process \* \* \*." The FRFA concludes that, "Considering the potential burdens placed on all small entities, we find that the institution of objective criteria by rule amendment will benefit all PSAPs and carriers, including small entities, by more clearly defining E911 readiness, thus reducing the potential for misunderstanding between parties, and by reducing instances of delay in E911 implementation. In turn, this will reduce the likelihood that any PSAP or carrier, including all small entities, will have to expend its limited capital resources prematurely and/or improvidently."

15. The Recon takes several steps to mitigate the economic risk to smaller

carriers. First, as discussed in paragraphs 9 through 12 of the full text, the Recon responds to carrier comment that indicates the present rule does not specify time limits for responding to a carrier's request for PSAP readiness documentation, by establishing that where a wireless carrier requests readiness documentation in writing within 15 days of receiving the PSAP's request for E911 service, the PSAP will have 15 days to provide such documentation. The Commission believes that these 15-day timeframes will both reduce a carrier's ability to use a documentation request as a delaying tactic, and minimize unnecessary carrier expenditures in those situations where the PSAP is unable to demonstrate that it will be ready to receive and utilize the requested E911 information by the end of the six-month period allotted for carrier compliance. The Recon also acknowledges, as discussed in paragraph 14, that the current rules do not provide for situations where a PSAP has made the upfront readiness showing necessary to trigger Phase II implementation, but turns out to be incapable of receiving Phase II information at the end of the six-month implementation period. To address such situations, the Recon Order modified the Commission's rules in several respects. These modifications are set out in detail in paragraphs 15 through 21 of the Recon Order.

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

16. 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 section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.

17. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is

independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations.

18. The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000. There are approximately 85,006 governmental jurisdictions in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules.

19. Neither the Commission nor the SBA has developed definitions for small providers of the specific industries affected. Therefore, throughout our analysis, the Commission uses the closest applicable definition under the SBA rules, the North American Industry Classification System (NAICS) standards for "Cellular and Other Wireless Telecommunications" and "Wired Telecommunications Carriers." According to this standard, a small entity is one with no more than 1,500 employees. To determine which of the affected entities in the affected services fit into the SBA definition of small business, the Commission will refer to Table 5.3 in *Trends in Telephone Service (Trends)* a report published annually by the Commission's Wireline Competition Bureau.

20. We have included small incumbent local exchange carriers in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.