

the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

(b) *Soil Stabilization.* Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority. Stabilization must be completed within a period of time determined by the permitting authority. In limited circumstances, stabilization may not be required if the intended function of a specific area of the site necessitates that it remain disturbed.

* * * * *

(d) * * *

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use); and

* * * * *

§ 450.22 [Amended]

■ 4. Section 450.22 is amended by removing and reserving paragraphs (a) and (b).

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[EB Docket No. 08-51; DA 13-430]

Public Safety and Homeland Security Bureau Seeks To Refresh the Record Regarding Options for Addressing Non-Emergency Calls to 911 From Non-Service Initialized Handsets

AGENCY: Federal Communications Commission.

ACTION: Request for Comments.

SUMMARY: In this document, the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (PSHSB) seeks to refresh the record regarding the nature and extent of fraudulent 911 calls made from Non-Service Initialized (NSI) devices; concerns with blocking NSI devices used to make fraudulent 911 calls, and suggestions for making this a more viable option for carriers; and other possible solutions to the problem of fraudulent 911 calls from NSI devices.

DATES: Comments are due on or before May 16, 2013 and reply comments are due on or before May 31, 2013.

ADDRESSES: You may submit comments, identified by PS Docket No. 08-51 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *Mail:* 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.

- *People with Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

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 should be addressed to 445 12th Street SW., Washington DC 20554.

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: Eric Ehrenreich, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-1726 or Eric.Ehrenreich@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's Public Notice in PS Docket No. 08-51, DA 13-430, released on March 14, 2013. This document is available to the public at <http://www.fcc.gov/document/pshsb-seeks-refresh-non-emergency-911-calls-nsi-handset-record>.

Synopsis of the Public Notice

1. The Commission's rules require commercial mobile radio service (CMRS) providers subject to the Commission's 911 rules to forward all wireless 911 calls, including those originated from "non-service-initialized" (NSI) handsets, to Public Safety Answering Points (PSAPs). In 2008, nine public safety organizations and a software development firm (Petitioners) filed a petition for notice of inquiry to address the problem of fraudulent non-emergency 911 calls placed to PSAPs from NSI handsets. The Commission granted this petition and issued a *Notice of Inquiry* in April 2008 to enhance its understanding of the extent of the problem and to explore potential solutions. Specifically, the Commission requested comment in three areas: (1) The nature and extent of fraudulent 911 calls made from NSI devices; (2) concerns with blocking NSI devices used to make fraudulent 911 calls, and suggestions for making this a more viable option for carriers; and (3) other possible solutions to the problem of fraudulent 911 calls from NSI devices.

2. In light of the concerns raised by Petitioners regarding fraudulent non-emergency 911 calls, one of the options on which the *Notice of Inquiry* (73 FR 28,116), sought comment was whether the Commission should eliminate the 911 call-forwarding requirement for NSI devices. In response, a number of public safety commenters advocated for the Commission to eliminate the requirement. However, other commenters, including Petitioners, other public safety entities, and commercial carriers, took the opposite view, arguing that the public had come to rely on the fact that NSI devices are 911-capable and that eliminating the call-forwarding requirement could lead to tragic results given this public reliance.

3. In a recently filed *ex parte*, however, NENA: The 9-1-1 Association (NENA), one of the original Petitioners, has revised its earlier-stated position on this issue. NENA states that based on its "members' experience since 2008 * * * we now can support the reversal of the 'all calls' rule." According to NENA, "PSAPs face an ever-growing onslaught

of non-emergency calls to 9-1-1 from NSI devices.” Moreover, in recently filed comments in another docket, NENA states that there is now a “consensus view that the promotion of NSI devices does more harm than good.” NENA further asserts that “most charities and domestic violence advocates [have] abandoned the practice of distributing NSI devices.” NENA states that “NSI phone donation programs have since been supplanted by outright donations of devices and service by CMRS providers, and by state and federal programs (such as the Universal Service Fund-supported Lifeline program) that provide free or reduced-cost mobile service to low-income or at-risk individuals.” However, NENA does not support “overnight” elimination of the 911 call-forwarding requirement, proposing instead that the Commission should phase out the requirement “for devices and networks that no longer support legacy circuit-switched calling.” NENA claims that this would “minimize stranded investments by carriers and consumers as carriers transition to fully IP-based architectures such as LTE and consumers transition to IP-only devices that no longer support circuit-switched voice services.”

4. In light of NENA’s revised view on the 911 call-forwarding requirement, as well as the passage of time since the filing of comments in response to the *Notice of Inquiry*, we seek to refresh the record in this proceeding. In particular, we seek comment on whether other interested parties agree or disagree with NENA’s view that the Commission should consider phasing out the call-forwarding requirement as it applies to NSI devices. More generally, we seek comment on relevant changes in industry, technology, regulation, public practice, or otherwise that may have occurred since the earlier filing of comments. We also ask commenters to point out any earlier-submitted facts or analyses in the record that they now regard as outdated, and to provide any new information that they consider relevant.

I. Procedural Matters

A. Ex Parte Presentations

5. This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. 47 CFR 1.1200 through 1.1216. 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.

B. Comment Filing Procedures

6. Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Parties may file comments on or before the dates indicated on the first page of this document. Please place the docket number PS DOCKET NO. 08–51 on all filings. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

7. *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

8. *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.

9. 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.

10. 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.

11. 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.

12. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

13. 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 and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (tty).

14. Copies of the Petition and any subsequently filed documents in this matter are also available for inspection in the Commission’s Reference Information Center: 445 12th Street SW., CY-Level, Washington, DC 20554, (202) 418–0270.

Federal Communications Commission.

David S. Turetsky,

Chief, Public Safety and Homeland Security Bureau.

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