

§7.21

to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint may file a formal complaint with the Commission, as specified in §7.22 of this subpart.

(c) In the event the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission may order or prescribe such remedial actions and/or sanctions as are authorized under the Act and the Commission's rules and which are deemed by the Commission to be appropriate under the facts and circumstances of the case.

§7.21 Formal complaints, applicability of §§1.720 through 1.736 of this chapter.

Formal complaints against a manufacturer or provider, as defined under this subpart, may be filed in the form and in the manner prescribed under §§1.720 through 1.736 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§1.720 through 1.736 for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§1.720 and

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1.728 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 255 of the Act or this chapter.

§7.22 Formal complaints based on unsatisfied informal complaints.

A formal complaint filing based on an unsatisfied informal complaint filed pursuant to §4.16 of this chapter shall be deemed to relate back to the filing date of the informal complaint if it is filed within ninety days from the date that the Commission notifies the complainant of its disposition of the informal complaint and based on the same operative facts as those alleged in the informal complaint.

§7.23 Actions by the Commission on its own motion.

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this part and Section 255 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

PART 9—INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICES

Sec.

9.1 Purpose.

9.3 Definitions.

9.5 E911 service.

9.7 Access to 911 and E911 service capabilities.

AUTHORITY: 47 U.S.C. 151, 154(i)-(j), 251(e), and 303(r) unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 31874, July 6, 2009, the authority citation for part 9 was revised, effective Oct. 5, 2009. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 47 U.S.C. 151, 154(i)-(j), 251(e), 303(r), and 615a-1 unless otherwise noted.

SOURCE: 70 FR 37286, June 29, 2005, unless otherwise noted.

§9.1 Purpose.

The purpose of this part is to set forth the E911 service requirements and

conditions applicable to interconnected Voice over Internet Protocol service providers.

EFFECTIVE DATE NOTE: At 74 FR 31874, July 6, 2009, §9.1 was revised, effective Oct. 5, 2009. For the convenience of the user, the revised text is set forth as follows:

§ 9.1 Purposes.

The purposes of this part are to set forth the 911 and E911 service requirements and conditions applicable to interconnected Voice over Internet Protocol service providers, and to ensure that those providers have access to any and all 911 and E911 capabilities they need to comply with those 911 and E911 service requirements and conditions.

§ 9.3 Definitions.

ANI. Automatic Number Identification, as such term is defined in §20.3 of this chapter.

Appropriate local emergency authority. An emergency answering point that has not been officially designated as a Public Safety Answering Point (PSAP), but has the capability of receiving 911 calls and either dispatching emergency services personnel or, if necessary, relaying the call to another emergency service provider. An appropriate local emergency authority may include, but is not limited to, an existing local law enforcement authority, such as the police, county sheriff, local emergency medical services provider, or fire department.

Interconnected VoIP service. An interconnected Voice over Internet protocol (VoIP) service is a service that:

- (1) Enables real-time, two-way voice communications;
(2) Requires a broadband connection from the user's location;
(3) Requires Internet protocol-compatible customer premises equipment (CPE); and
(4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

PSAP. Public Safety Answering Point, as such term is defined in §20.3 of this chapter.

Pseudo Automatic Number Identification (Pseudo-ANI). A number, consisting of the same number of digits as ANI, that is not a North American Num-

bering Plan telephone directory number and may be used in place of an ANI to convey special meaning. The special meaning assigned to the pseudo-ANI is determined by agreements, as necessary, between the system originating the call, intermediate systems handling and routing the call, and the destination system.

Registered Location. The most recent information obtained by an interconnected VoIP service provider that identifies the physical location of an end user.

Statewide default answering point. An emergency answering point designated by the State to receive 911 calls for either the entire State or those portions of the State not otherwise served by a local PSAP.

Wireline E911 Network. A dedicated wireline network that:

- (1) Is interconnected with but largely separate from the public switched telephone network;
(2) Includes a selective router; and
(3) Is utilized to route emergency calls and related information to PSAPs, designated statewide default answering points, appropriate local emergency authorities or other emergency answering points.

EFFECTIVE DATE NOTE: At 74 FR 31874, July 6, 2009, §9.3 was amended by adding the definitions of "Automatic Location Information (ALI)" and "CMRS", effective Oct. 5, 2009. For the convenience of the user, the added text is set forth as follows:

§ 9.3 Definitions.

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Automatic Location Information (ALI). Information transmitted while providing E911 service that permits emergency service providers to identify the geographic location of the calling party.

CMRS. Commercial Mobile Radio Service, as defined in §20.9 of this chapter.

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§ 9.5 E911 Service.

(a) Scope of Section. The following requirements are only applicable to providers of interconnected VoIP services. Further, the following requirements apply only to 911 calls placed by users whose Registered Location is in a geographic area served by a Wireline E911

Network (which, as defined in §9.3, includes a selective router).

(b) *E911 Service*. As of November 28, 2005:

(1) Interconnected VoIP service providers must, as a condition of providing service to a consumer, provide that consumer with E911 service as described in this section;

(2) Interconnected VoIP service providers must transmit all 911 calls, as well as ANI and the caller's Registered Location for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter, provided that "all 911 calls" is defined as "any voice communication initiated by an interconnected VoIP user dialing 911;"

(3) All 911 calls must be routed through the use of ANI and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network; and

(4) The Registered Location must be available to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.

(c) *Service Level Obligation*. Notwithstanding the provisions in paragraph (b) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, an interconnected VoIP service provider need not provide such ANI or location information; however, nothing in this paragraph affects the obligation under paragraph (b) of this section of an interconnected VoIP service provider to transmit via the Wireline E911 Network all 911 calls to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter.

(d) *Registered Location Requirement*. As of November 28, 2005, interconnected VoIP service providers must:

(1) Obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized; and

(2) Provide their end users one or more methods of updating their Registered Location, including at least one option that requires use only of the CPE necessary to access the interconnected VoIP service. Any method utilized must allow an end user to update the Registered Location at will and in a timely manner.

(e) *Customer Notification*. Each interconnected VoIP service provider shall:

(1) Specifically advise every subscriber, both new and existing, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service. Such circumstances include, but are not limited to, relocation of the end user's IP-compatible CPE, use by the end user of a non-native telephone number, broadband connection failure, loss of electrical power, and delays that may occur in making a Registered Location available in or through the ALI database;

(2) Obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood the advisory described in paragraph (e)(1) of this section; and

(3) Distribute to its existing subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the equipment used in conjunction with the interconnected VoIP service. Each interconnected VoIP provider shall distribute such warning stickers or other appropriate labels to each new subscriber prior to the initiation of that subscriber's service.

(f) *Compliance Letter*. All interconnected VoIP providers must submit a letter to the Commission detailing their compliance with this section no later than November 28, 2005.

§ 9.7 Access to 911 and E911 service capabilities.

(a) *Access.* Subject to the other requirements of this part, an owner or controller of a capability that can be used for 911 or E911 service shall make that capability available to a requesting interconnected VoIP provider as set forth in paragraphs (a)(1) and (a)(2) of this section.

(1) If the owner or controller makes the requested capability available to a CMRS provider, the owner or controller must make that capability available to the interconnected VoIP provider. An owner or controller makes a capability available to a CMRS provider if the owner or controller offers that capability to any CMRS provider.

(2) If the owner or controller does not make the requested capability available to a CMRS provider within the meaning of paragraph (a)(1) of this section, the owner or controller must make that capability available to a requesting interconnected VoIP provider only if that capability is necessary to enable the interconnected VoIP provider to provide 911 or E911 service in compliance with the Commission's rules.

(b) *Rates, terms, and conditions.* The rates, terms, and conditions on which a capability is provided to an interconnected VoIP provider under paragraph (a) of this section shall be reasonable. For purposes of this paragraph, it is evidence that rates, terms, and conditions are reasonable if they are:

(1) The same as the rates, terms, and conditions that are made available to CMRS providers, or

(2) In the event such capability is not made available to CMRS providers, the same rates, terms, and conditions that are made available to any telecommunications carrier or other entity for the provision of 911 or E911 service.

(c) *Permissible use.* An interconnected VoIP provider that obtains access to a capability pursuant to this section may use that capability only for the purpose of providing 911 or E911 service in accordance with the Commission's rules.

[74 FR 31874, July 6, 2009]

EFFECTIVE DATE NOTE: At 74 FR 31874, July 6, 2009, § 9.7 was added, effective Oct. 5, 2009. Paragraph (a) contains information collection requirements and will not become effective until approval has been given by the Office of Management and Budget.

PART 10—COMMERCIAL MOBILE ALERT SYSTEM**Subpart A—General Information**

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- 10.2 Purpose.
- 10.10 Definitions.
- 10.11 CMAS implementation timeline.

Subpart B—Election to Participate in Commercial Mobile Alert System [Reserved]**Subpart B—Election to Participate in Commercial Mobile Alert System**

- 10.210 CMAS participation election procedures.
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- 10.230 New CMS providers participation in CMAS.
- 10.240 Notification to new subscribers of non-participation in CMAS.
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- 10.260 Timing of subscriber notification.
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- 10.300 Alert aggregator. [Reserved]
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- 10.400 Classification.
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- 10.440 Embedded reference prohibition.
- 10.450 Geographic targeting.
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- 10.500 General requirements.
- 10.510 Call preemption prohibition.
- 10.520 Common audio attention signal.