EATON COUNTY BOARD OF COMMISSIONERS

MEMBERS
Tim Barnes
Blake Mulder
Terrance Augustine
Brandon Haskell
Jeanne Pearl-Wright
Jane Whitacre
Mark J. Mudry
Joseph Brehler

MEMBERS
Brian Droscha
Dairus Reynnet
Wayne Ridge
Brian Lautzenheiser
Jim Mott
Jeremy Whittum
Barbara Rogers

1045 Independence Blvd, Charlotte, MI 48813

EATON COUNTY BOARD OF COMMISSIONERS/PUBLIC SAFETY COMMITTEE

THURSDAY, MARCH 4, 2021, 4:00 P.M.

TO BE HELD VIRTUALLY

AGENDA

1. Call to Order.
2. Pledge of Allegiance.
3. Agenda Additions and Changes.
4. Approval of February 4, 2021 Minutes.
5. Limited Public Comment.
6. Sheriff's Office Update.
7. Monthly Reports.
   - Reimbursement
   - Jail Census
   - Court Security
8. Crime Victims' Rights Week Resolution.
9. Violence Against Women Grant Application Resolution.
10. Central Dispatch Update.
11. Emergency Services Update.
12. Miscellaneous.
13. Limited Public Comment.
14. Adjournment.

A quorum of the Board of Commissioners may be present at this meeting.

PUBLIC SAFETY COMMITTEE

FEBRUARY 4, 2021
4:00 P.M.

MINUTES

MEMBERS PRESENT:	Commissioners Tim Barnes, Wayne Ridge, Brian Droscha, Brandon Haskell, Mark Mudry, Dairus Reynnet and Jane Whitacre
ALSO PRESENT:	Commissioner Jeremy Whittum, Sheriff Tom Reich, Undersheriff Jeff Cook, Chief Deputy Adam Morris, Michael Armitage, Kelley Cunningham, Ryan Wilkinson, Jerri Nesbitt and John Fuentes

The Public Safety Committee met in virtual session on February 4, 2021, as permitted by PA 228 of 2020, as amended. The members made an announcement of the location from which they are attending remotely as follows:

Commissioner Barnes, their residence in the Village of Mulliken, Eaton County, MI
Commissioner Ridge, their residence in the City of Charlotte, Eaton County, MI
Commissioner Droscha, their residence in Eaton Township, Eaton County, MI
Commissioner Haskell, their residence in Delta Township, Eaton County, MI
Commissioner Mudry, their residence in Delta Township, Eaton County, MI
Commissioner Reynnet, their residence in the Village of Dimondale, Eaton County, MI
Commissioner Whitacre, their residence in Delta Township, Eaton County, MI

Chairperson Barnes called the meeting to order at 4:00 p.m.

The Pledge of Allegiance was given by all.

A request to add consideration of an appointment to the Community Corrections Advisory Board to the agenda was made by Controller Fuentes.

Commissioner Barnes moved to approve the addition with the addition of a Community Corrections Advisory Board appointment as item 10a. Commissioner Droscha seconded. Motion carried by unanimous roll call vote.

Commissioner Haskell moved to approve the minutes of the January 14, 2021 minutes, as presented. Commissioner Droscha seconded. Motion carried by unanimous roll call vote.

No limited public comment.

Sheriff Reich highlighted the major incidents that occurred in January 2021. Sheriff Reich praised the efforts of Deputy Turner and K-9 Tank in apprehending a suspect in Delta Township.

An update was provided on the revenue projections for the boarding programs. The Michigan Department of Corrections (MDOC) census is down due to a lack of parole violators being housed from other counties at present. Revenue projections remain consistent with the budgetary estimates. The jail census and court security reports were also presented and reviewed. Discussion held.

Director Armitage provided the monthly update for Central Dispatch. It was reported that in January 2021, dispatch incidents (6,977) were down by approximately 1,000 compared to January 2020.

Emergency Manger Wilkinson provided an update on the support efforts for the Health Department's vaccination program.

It was reported that the County will need to approve a subrecipient agreement with Ingham County to participate in the Homeland Security Grant Region One program. Discussion held.

Commissioner Haskell moved to recommend approval of a resolution to approve the Fiscal Year 2020 Homeland Security Grant Program Region One subrecipient agreement, to the Board of Commissioners.

Commissioner Droscha seconded. Motion carried by unanimous roll call vote.

It was also reported that the Local Planning Team met and recommended a project to acquire equipment for a portable data network from the Homeland Security Grant Fiscal Year 2019 allocation. Discussion held.

Commissioner Droscha moved to approve the local planning team portable data network project in the amount of $1,500. Commissioner Haskell seconded. Motion carried by unanimous roll call vote.

A draft of the County Continuity of Operations Plan was presented and reviewed. It was reported that Mr. Wilkinson will be continuing discussions with other agencies to formalize agreements for possible alternative locations for County operations in the event County facilities become unavailable or unusable in an emergency. Discussion held.

A communication from Chief Judge Cunningham recommending District Judge O'Neill be appointed to the vacancy created by the retirement of District Judge Reincke on the Community Corrections Advisory Board was presented.

Commissioner Reynnet moved to recommend the appointment of District Judge Julie O'Neill to the Community Corrections Advisory Board for the duration of her term of office, to the Board of

Commissioners. Commissioner Droscha seconded. Motion carried by unanimous roll call vote.

There was no limited public comment.

Chairperson Barnes adjourned the meeting at 4:32 p.m.

The next regularly scheduled meeting of the Public Safety Committee will be held on Thursday, March 4, 2021 at 4:00 p.m.

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Commissioner Tim Barnes
Chairperson, Public Safety Committee

Fiscal Year
2020-2021

JAIL BOARDING

JANUARY 2021

PAYEE	REVENUE ACCOUNT	ANNUAL BUDGET	MONTHLY BILLED	YTD BILLED	YTD COLLECTED
PAROLE VIOLATORS	MDOC HOUSING	$189,000.00	$210.00	$53,305.00	**$45,494.10**
DIVERTED FELONS	MDOC HOUSING	$225,000.00	$22,100.00	$70,400.00	**$870.00**
WRAP PROGAM	MDOC HOUSING	$486,000.00	$41,445.00	$178,425.00	**$0.00**
	TOTAL BOARDING	**$900,000.00**	**$63,755.00**	**$302,130.00**	**$46,364.10**

GENERAL FUND

	SENTENCED INMATES	CURRENT BUDGET	MONTHLY BILLED	YTD BILLED	YTD COLLECTED
INDIVIDUALS	HOUSING	$25,000.00	$24,343.00	$137,952.75	**$5,654.46**
	OUIL IMPAIRED	$25,000.00	$1,609.00	$5,937.00	**$3,837.21**
	FALSE ALARMS	$5,000.00	$1,465.00	$3,735.00	**$1,465.00**
	ABAN. VEHICLES	$3,000.00	$3,200.00	$3,200.00	**$1,680.00**
	INMATE MEDICAL	$1,500.00	$2,359.53	$8,206.58	**$72.66**
	TOTALS	**$59,500.00**	**$32,976.53**	**$159,031.33**	**$12,709.33**

Prepared by Tammie Brand, Corrections Accounting

JAIL COUNT SUMMARY
Feb-21

Day	Building Total	Eaton County Pop.	Female Inmates	MDOC	WRAP	% of Capacity	% of Eaton County Pop
1	158	129	16	2	27	42%	81%
2	162	133	16	2	27	43%	82%
3	160	131	16	2	27	43%	82%
4	167	137	17	3	27	45%	82%
5	168	138	16	3	27	45%	82%
6	168	137	18	4	27	45%	81%
7	168	137	19	4	27	45%	81%
8	170	139	19	4	27	45%	81%
9	170	140	19	4	26	45%	82%
10	171	142	18	4	25	46%	83%
11	171	141	16	5	25	46%	82%
12	176	144	17	5	27	47%	82%
13	174	143	17	4	27	47%	82%
14	172	141	18	4	27	46%	82%
15	172	141	18	4	27	46%	82%
16	173	142	18	4	27	46%	82%
17	168	141	18	4	23	45%	84%
18	167	140	18	5	22	45%	84%
19	169	142	18	5	22	45%	84%
20	175	147	19	5	23	47%	84%
21	178	151	19	4	23	48%	85%
22	177	150	19	4	23	47%	84%
23	172	145	18	4	23	46%	84%
24	176	149	19	4	23	47%	84%
25	180	153	19	4	23	48%	85%
26	176	149	22	5	22	47%	84%
27	174	148	22	5	21	47%	85%
28	174	148	22	5	21	47%	85%
29		0				0%	#DIV/0!
30		0				0%	#DIV/0!
31		0				0%	#DIV/0!
TOTAL			511	112	696	46%	38%

Bldg Total	4786
Avg/Day	171
Eaton Cty. Total	3965
Avg/Day	142
Housing Total	112
Avg/Day	4
Female Total	511
Avg/Day	18

Court Security Screening Monthly Report 2021

	People Scanned	Guns Confiscated / Returned	Knives Confiscated / Returned	Chemical Agents	Other
January	1780	0	1	2	1
February	1731	0	5	0	2
March					
April					
May					
June					
July					
August					
September					
October					
November					
December					
Totals	3511	0	6	2	3

Juvenile Court Security Screening Monthly Report 2021

	People Scanned	Guns Confiscated / Returned	Knives Confiscated / Returned	Chemical Agents	Other
January	0	0	0	0	0
February	0	0	0	0	0
March					
April					
May					
June					
July					
August					
September					
October					
November					
December					
Totals	0	0	0	0	0

EATON COUNTY BOARD OF COMMISSIONERS

MARCH 17, 2021

RESOLUTION DECLARING
APRIL 18, 2021 – APRIL 24, 2021
AS NATIONAL CRIME VICTIMS RIGHTS WEEK

Introduced by the Public Safety Committee

Whereas, the victim's rights movement has resulted in the passage of laws at the local, state and federal levels that established essential rights for victims; and

Whereas, the William Van Regenmorter Crime Victim's Rights Act in Michigan and federal victim's rights legislation have provided victims with ways to participate meaningfully throughout the criminal justice process; and

Whereas, the rights of crime victims are best protected when all participants in the criminal justice process, not only victims, are appropriately educated about victim's rights; and

Whereas, the entire community plays a role in reaching out to all victims, engaging with victim communities by providing crime victims services and resources to meet their needs, helps service providers rebuild trust in victims' lives through support, trust and justice; and

Whereas, this is the time to renew our commitment to serving all victims of crime, acknowledging the achievements in victim services and honoring those who have gone above and beyond in their service to others, remembering crime victims and survivors; and

Whereas, National Crime Victims' Rights Week is April 18-24, 2021 with the theme: *"Support Victims, Build Trust, Engage Communities"*. The observance provides an opportunity to emphasize the importance of leveraging community support to help victims of crime; and

Whereas, the Eaton County Prosecuting Attorney's Office is dedicated to strengthening victims and survivors in the aftermath of crime, to keeping victims informed about the services and rights available to them; and to working to achieve justice for all victims and survivors.

NOW, THEREFORE, the Eaton County Board of Commissioners does hereby proclaim the third week of April each year, as Crime Victim's Rights Week; reaffirms this County's commitment to creating a victim service and criminal justice response that assists all victims of crime during Crime Victim's Rights Week and throughout the year; and this Board further expresses its sincere gratitude and appreciation for community members, victim service providers and criminal justice professionals, who are committed to improving our response to all victims of crime so that they may find relevant assistance, support, justice, and peace.

EATON COUNTY BOARD OF COMMISSIONERS

MARCH 17, 2021

RESOLUTION TO AUTHORIZE APPLICATION FOR OFFICE OF VIOLENCE AGAINST WOMEN GRANT

Introduced by the Public Safety Committee

WHEREAS, the U.S. Department of Justice, Office of Violence Against Women (OVW) has grant funds available; and

WHEREAS, the grant will provide funding for improving criminal justice responses to domestic violence, dating violence, sexual assault and stalking; and

WHEREAS, the Prosecutor's Office is desirous of submitting a grant application to provide enhanced responses to these serious violations of criminal law through the creation of a special victims unit to best serve victims and to hold offenders accountable; and

WHEREAS, the grant funding request is an amount not to exceed $500,000, with no County match for a 36-month period beginning October 1, 2021;

NOW, THEREFORE BE IT RESOLVED, that the Board of Commissioners authorize the Prosecutor's Office to submit a grant application; and

BE IT FURTHER RESOLVED, that if the County's participation in the grant is discontinued or requires a County General Fund contribution, the continuation of the grant funded positions will be reviewed by the appropriate committees to determine the necessity of General Fund commitment; and

BE IT FURTHER RESOLVED, that the Controller be authorized to approve any necessary budget amendments to increase expenditures and increase grant revenue if the grant is approved; and

BE IT FURTHER RESOLVED, that the Chairperson of the Board of Commissioners be authorized to sign any necessary documents.

Eaton County Central Dispatch
911 Courthouse Dr. | Charlotte MI 48813
Phone: 517-543-4913 | Fax: 517-543-3036

Michael Armitage, *Director*
Kelley Flynn, *Deputy Director*

Monthly Report
February 2021

- 9,445 total telephone calls
  - 3,464 on emergency lines
  - 5,981 on non-emergency lines
- 5 text-to-911 sessions
- 6,735 incidents
  - 4,950 Law Enforcement
  - 1,208 EMS
  - 577 Fire
- 4 addresses issued

Training:
- Employees have been attending missing and exploited children training virtually.

Technology and Radios:
- Wi-Fi points have been installed across the county to allow first responders to update their radios without needing to bring them to dispatch.
- Director Armitage has been working with school officials and law enforcement agencies to evaluate emergency notifications products.
- We are now receiving all 911 calls through NG911 lines. The AT&T 911 trunks will be scheduled for removal after a period of observation time (to verify those lines do not have any traffic on them).
- Additional radio equipment has been ordered for several police, fire, and EMS departments based on needs that have changed since we placed the original order in 2017.

Operations:
- We have a hiring process open for two positions.
- MABAS went live for 9 fire departments. This is a structured system for determining resources needed/available (see attached brochure).

Outreach:
- Director Armitage has been working with local officials and Michigan 911 directors on responses to the FCC NPRM for 911 fee diversion.
- Director Armitage is the President of the Michigan Communication Directors Association until February of 2022.

Rave Report:

Inbound 911 Calls	11,112
User Initiated Tickets	9
Safety Profile Pops	268
Guardian Profile Pops	16
Tickets With Chat	184
Tickets With Chat Response	18
Tickets With Video Sharing	0
Notes Added	0
Tickets with Notes Available	4
Tickets with RapidSOS Location	7,398
Tickets with RapidSOS Data	3,674
Facility Profile Pops	223
Panic Button Activity	8
Safety Profiles Created	19
Facility Profiles Created And Approved	0
Pending Approvals	2
Total Safety Profiles Created	8,311
Total Facility Profiles Created And Approved	63

Yours Truly,

Michael Armitage
Director

Eaton County Central Dispatch
Total Calls For Service

February 2021				
Type Agency	Month To Date		Year To Date	
	Calls	**%/Total**	**Calls**	**%/Total**
EMS	1,208	17.9%	2,493	18.2%
Fire	577	8.6%	1,244	9.1%
Police	4,950	73.5%	9,975	72.7%
Total Calls	**6,735**	**100.0%**	**13,712**	**100.0%**

Eaton County Central Dispatch
EMS Calls For Service

February 2021				
Agency	Month To Date		Year To Date	
	Calls	**%/Total**	**Calls**	**%/Total**
Benton Twp. EMS	94	7.8%	184	7.4%
Delta Twp. EMS	400	33.1%	826	33.1%
Eaton Area EMS	460	38.1%	922	37.0%
Grand Ledge EMS	140	11.6%	308	12.4%
Vermontville EMS	13	1.1%	26	1.0%
Windsor Twp. EMS	83	6.9%	187	7.5%
Outside Agencies* *LIFE, LTEM, MARE, NEMS*	18	1.5%	40	1.6%
Total EMS Calls	**1,208**	**100.0%**	**2,493**	**100.0%**

* Agencies Outside Eaton County

Eaton County Central Dispatch

Fire Calls For Service

February 2021				
Agency	Month To Date		Year To Date	
	Calls	%/Total	Calls	%/Total
Bellevue Fire	28	4.9%	57	4.6%
Benton Twp Fire	29	5.0%	57	4.6%
Charlotte Fire	66	11.4%	138	11.1%
Delta Fire	198	34.3%	436	35.0%
Eaton Rapids City	45	7.8%	117	9.4%
Eaton Rapids Twp.	48	8.3%	121	9.7%
Grand Ledge Fire	51	8.8%	108	8.7%
Hamlin Twp Fire	13	2.3%	23	1.8%
Olivet Fire	24	4.2%	42	3.4%
Roxand Twp. Fire	9	1.6%	18	1.4%
Sunfield Fire	25	4.3%	46	3.7%
Vermontville Fire	11	1.9%	23	1.8%
Windsor Fire	24	4.2%	48	3.9%
Outside Agencies*	6	1.0%	10	0.8%
LTFD, SPNG				
Total Fire Calls	**577**	**100.0%**	**1,244**	**100.0%**

* Agencies Outside Eaton County

Eaton County Central Dispatch
Police Calls For Service

February 2021				
Agency	Month To Date		Year To Date	
	Calls	%/Total	Calls	%/Total
Bellevue Police	75	1.5%	124	1.2%
Charlotte Police	654	13.2%	1,328	13.3%
Eaton County Sheriff	2,893	58.4%	5,815	58.3%
Delta	*1,692*	34.2%	3,456	34.6%
Out County	*1,099*	22.2%	2,162	21.7%
Animal Control	*102*	2.1%	197	2.0%
Eaton Rapids Police	299	6.0%	619	6.2%
Grand Ledge Police	327	6.6%	670	6.7%
Michigan State Police	537	10.8%	1,091	10.9%
Olivet Police	20	0.4%	33	0.3%
Potterville Police	138	2.8%	273	2.7%
Outside Agencies* *DNR, ME*	7	0.1%	22	0.2%
Total Police Calls	**4,950**	**100.0%**	**9,975**	**100.0%**

Eaton County New Builds

Date Issued	Certificate #	New Address	City	Zip Code	Permit Type
February 4, 2021	2021-7	3650 N STEWART RD	CHARLOTTE	48813	ACCESSORY BUILDING
February 8, 2021	2021-9	10260 HARVEST PARK	DIMONDALE	48821	NEW INDUSTRIAL
February 8, 2021	2021-8	6410 SHERWOOD HWY	BELLEVUE	49021	NEW BUILD
February 17, 2021	2021-10	9161 WALNUT HWY	DIMONDALE	48821	NEW BUILD

Getting Started

When members of a prospective division decide to pursue joining MI-MABAS, the journey begins by contacting MI-MABAS. The MI-MABAS Executive Board will meet with the interested parties of your prospective division to provide an overview of the process and discuss available resources including the orientation presentation, ongoing communication and mentors who will aid in developing box cards and provide other logistical support.

Visit the MI-MABAS Website for more information and access to the MI-MABAS Agreement, Response Plan, Divisions, MI Task Force 1, Box Card Templates, and Getting Started Documents.

www.MICHIGANMABAS.us

MICHIGAN MABAS...

A response plan that is predetermined and reliable. MI-MABAS works for all levels of response, for all hazards and includes the specialized equipment and teams that no single fire department possess.

CONTACT US

Michigan MABAS
7377 Grange Hall Road
Holly, MI. 48442
Phone: (989)455-1135
E-Mail: INFO@MICHIGANMABAS.us

"We Got Your Back"

PREDETERMINED

RELIABLE

MUTUAL AID

www.MICHIGANMABAS.us

MICHIGAN MABAS IS A USER DRIVEN SYSTEM FOR DAY TO DAY MUTUAL AID AND LARGE DISASTERS

MICHIGAN MUTUAL AID BOX ALARM SYSTE

Through mutual aid, MI-MABAS has the capability to provide emergency response locally or statewide when lives, property or the environment is threatened by man-made, technological or natural disasters or emergencies by deploying fire response, emergency medical services, technical rescue teams, hazardous materials teams and other special rescue operations needed and requested by the host/stricken

• STANDARDIZATION • INTEROPERABILITY •
• BOX CARDS • TIERED RESOURCE SYSTEM •
• STATEWIDE RESPONSE PLAN • DIVISIONS •
• MUTUAL AID • MITF1 • FIRE • EMS • RESCUE •
• STRIKE TEAMS • TANKER TASK FORCE •
• COORDINATED • INTERDIVISIONAL • INTERSTATE •

A Tiered Plan – The BOX CARD is a document that the Fire Chief uses to determine the mutual aid resources that will be needed when the department resources are exhausted. Requested resources may include specialized items, such as personnel and equipment for hazardous material and technical rescue.

An "alarm" is the pivotal point when the Incident Commander of a stricken fire department recognizes the need for additional and/or specialized resources. Starting with the "Box Alarm Level," the resources increase with each alarm selected. The Incident Commander can immediately ratchet up to multiple alarms immediately if the incident requires that level of response.

The box card system is based on the closest, most appropriate resource and a numbering system for each "Box," which is a geographic area. The basic box card lists the fire department's primary responding units (prior to the box alarm level) and resources for two levels prior to the box alarm, including arrangements the Fire Chief has made in advanced with other departments. Then the card allows the Chief to plan for different levels of response – tiers of response starting with the first box alarm, then two alarms, three alarms and up.

Box cards list the equipment and personnel needed from other nearby departments for each level of alarm. For example, the box card may name one department to provide an engine, another to send a truck, another to send a squad, another to send an ambulance, and so on.

The 80/20 Rule – The MI-MABAS policy is that no department will provide more than 20 percent of its resources. MI-MABAS is not intended to relieve a community of its responsibility to provide an adequate first line of defense for all local emergencies.

Interdivisional Requests – MI-MABAS also includes an "Interdivisonal Request" system, which activates during a large-scale incident when all companies have been dispatched on the specific box alarm but additional companies from outside the stricken area's MI-MABAS division are necessary.

"Michigan MABAS is a user driven system designed to streamline the requesting and providing of emergency and fire service resources across Michigan for day to day mutual aid and for large scale events."

– Chief Nelson, Troy Fire (Retired)

Eaton County Central Dispatch
911 Courthouse Dr. | Charlotte MI 48813
Phone: 517-543-4913 | Fax: 517-543-3036

Michael Armitage, *Director*
Kelley Cunningham, *Deputy Director*

To: Eaton County Board of Commissioners
From: Michael Armitage, 911 Director
Re: 911 Surcharge Rate
Date: February 25, 2021

In 2017, the voters of Eaton County approved a 911 surcharge not to exceed $1.75/month per device capable of calling 911. The surcharge was passed for the purpose of upgrading the public safety radio system used by all first responders in Eaton County. The surcharge was set at $1.75 in 2018 and 2019, then lowered to $1.65 in 2020 (any changes are effective annually on July 1st).

Last year, I provided the board with a projection that revenues would average $467,000 a quarter with the rate being reduced to $1.65. The actual revenues performed slightly better over the last two quarters, averaging $475,000. Based on the revenue and expenditure projections into the next fiscal year, I recommend keeping the surcharge at a rate of $1.65.

No further action is required based on the recommendation to continue the surcharge at the current rate, however is the Board desires to adjust the surcharge a resolution will need to be approved prior to May 1st.

	FY 18/19	FY 19/20	FY 20/21				FY 21/22				FY 22/23				FY 22/23			
	Carryover	FY 19/20	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Sucharge		$ 1,998,351	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000	$ 475,000
Capital		$ 248,000		$ 257,300			$ 125,000											
Contractual		$ 15,000	$ 10,000				$ 10,000				$ 10,000				$ 10,000			
Maintenance		$ 92,000		$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500	$ 9,500
Debt		$ 1,612,327	$ 1,612,327				$ 1,612,327				$ 1,612,327				$ 1,612,327			
Rent		$ 8,772	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850	$ 1,850
Monitoring			$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750	$ 8,750
Balance	$ 2,091,000	$ 2,113,252	$ 955,325	$ 1,152,925	$ 1,607,825	$ 2,062,725	$ 770,298	$ 1,225,198	$ 1,680,098	$ 2,134,998	$ 967,571	$ 1,422,471	$ 1,877,371	$ 2,332,271	$ 1,164,844	$ 1,619,744	$ 2,074,644	$ 2,529,544

Eaton County Central Dispatch
911 Courthouse Dr. | Charlotte MI 48813
Phone: 517-543-4913 | Fax: 517-543-3036

Michael Armitage, *Director*
Kelley Cunningham, *Deputy Director*

To: Eaton County Board of Commissioners / Public Safety Committee
From: Michael Armitage, 911 Director
Re: Comments on FCC NPRM
Date: February 16, 2021

The Federal Communications Commission (FCC) is expected to approve a Notice of Proposed Rulemaking (NPRM) on February 17, 2021 in regards to 911 fee (surcharge) diversion. On December 27, 2020, new federal legislation (the Don't Break Up the T-Band Act of 2020) was signed into law that requires the FCC to take action to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911.

While my colleagues and I agree with the intent of the proposed rules, language in the NRPM brings concerns to many 911 centers in Michigan. Michigan has a strong reputation for NOT diverting fees by maintaining an 'allowable/disallowable' list, coupled with periodic compliance reviews of counties by the state 911 office. However, there is a conflict between what the FCC defines as allowable use of 911 fees and the definitions used by agencies in the state of Michigan. The NPRM appears to only identify costs in the PSAP (911 center) as allowable. In contrast, the State of Michigan looks at the '911 ecosystem' to include radio systems, in car computers, and location services for first responders that are directly dispatched by the 911 center. These systems are critical in allowing information sharing between 911 and first responders.

Failure by the FCC to include definitions of allowable expenses which are similar to those identified by the State of Michigan would result in Eaton County, along with many other counties in Michigan, being identified as diverting 911 fees. The recent investment in a radio system, including the tower infrastructure and handheld/mobile radios for first responders, is being funded utilizing a voter-approved 911 surcharge. Under the State rules this is considered allowable, but the FCC NPRM language would only identify radios located within the actual 911 center as being an allowable expense. Note that this would not affect our millage revenue as the FCC would not have jurisdiction over property taxes.

Due to the potential impact this could have on Eaton County, I recommend that we provide comment to the FCC on this NPRM. Several jurisdictions in southeast Michigan that are using 911 surcharge fees in a similar manner have retained an attorney, Mr. Alan Tilles, to provide joint comments, and it is expected that the Michigan Communication Directors Association will do the same. I have been in communication with Mr. Tilles and he is capping the fees for each agency at $500, which could be covered under Central Dispatch's budget. It is my recommendation that we join other agencies in their comments, through Mr. Tilles.

Attachments: FCC Fee Diversion Fact Sheet
Michigan Allowable/Disallowable List

ALLOWABLE/DISALLOWABLE USAGE OF 9-1-1 SURCHARGE FUNDS

BY WAY OF EXAMPLE, BUT NOT LIMITATION, THE FOLLOWING COSTS ARE ALLOWABLE OR DISALLOWABLE (as approved by the STATE 9-1-1 COMMITTEE on June 23, 2009):

ALLOWABLE 9-1-1 SURCHARGE FUNDS 9-1-1 SURCHARGE EXPENDITURES

Personnel Costs directly attributable to the delivery of 9-1-1 service (i.e.; directors, supervisors, dispatchers, call-takers, technical staff, support staff):

Salaries	MSAG Coordination	Uniforms
Fringe Benefits	Addressing/Database	EAP

Note: If 9-1-1 staff serves dual functions (i.e.; a director who is also in charge of Emergency Management, a dispatcher who is also a police officer) then only those portions of personnel costs attributable to their 9-1-1 functions should be allowable.

Facility Costs of the dispatch center directly attributable to the delivery of 9-1-1 service:

- Capital improvements for construction, remodeling, or expansion of dispatch center
- Electrical/Heat/AC/Water
- Fire Suppression System
- Cleaning, Maintenance, Trash Removal
- Telephone
- Generator/UPS and Grounding
- Insurance
- Office Supplies
- Printing and copying
- Furniture

Note: If a shared facility, only those portions of facility costs attributable to the 9-1-1 functions should be allowable.

Training and Memberships directly related to 9-1-1 service:

- On the job training
- Vendor provided training
- Conferences
- Travel and lodging as necessary
- Membership in associations (APCO, NENA, etc.)

THE BELOW DISALLOWABLE EXPENSES ARE MEANT TO SERVE AS EXAMPLES ONLY - PLEASE REFER TO THE STATE 9-1-1 COMMITTEE APPEALS PROCESS FOR QUESTIONS.

Personnel Costs of law enforcement, fire, and EMS responders, emergency management staff, shared support or technical staff, except for portions of time directly functioning as 9-1-1 allowable staff.

Facility Costs of law enforcement, fire, EMS, emergency management, or other municipal facilities, except for that portion housing the 9-1-1 center or back up center, or leased to the 9-1-1 center for allowable training or meeting facilities.

Capital costs and furnishing for facilities for which the primary purpose is other than 9-1-1 (i.e.; a conference room used primarily for the City Council but occasionally leased/loaned to the 9-1-1 center for meetings).

Training for staff not involved directly in the delivery of 9-1-1 service, or for any staff for courses not directly attributable to 9-1-1 or dispatching services. **Memberships** for staff not involved directly in the delivery of 9-1-1 service, or for associations with a primary purpose other than public safety communications (i.e., sheriff's associations, police or fire chief associations, etc.)

ALLOWABLE/DISALLOWABLE USAGE OF 9-1-1 SURCHARGE FUNDS

ALLOWABLE 9-1-1 SURCHARGE FUNDS 9-1-1 SURCHARGE EXPENDITURES

Hardware, software, connectivity and peripherals directly attributable to the delivery of 9-1-1 service:

- Customer Premise Equipment
- Remote CPE Hardware/Modems
- Computer-Aided Dispatch
- Radio system (consoles, infrastructure, field equipment)
- LEIN costs for dispatch purposes
- Paging System, pagers and related costs
- Voice logging equipment
- Mobile Data Systems
- GIS/Mapping Systems/AVL Systems
- Alarms/Security Systems
- Connectivity for any of the above
- Maintenance and service agreements of above
- Software licensing of the above
- Associated database costs

Vehicle costs (staff vehicle, pool car, mileage reimbursement, fuel, etc.) directly attributable to the delivery of 9-1-1 service:

- Travel for meetings, training, conferences
- Travel for MSAG verification and testing
- Travel for 9-1-1 Public Education purposes

Professional Services

Attorneys	Consultants	Insurance
Architects	Auditor	

Public Information/Education Expenses directly attributable to the delivery of 9-1-1 service.

Miscellaneous

DISALLOWED 9-1-1 SURCHARGE FUNDS 9-1-1 SURCHARGE EXPENDITURES

Hardware, software, connectivity and peripherals not attributable to the delivery of 9-1-1 service:

- Law Enforcement Record Management Systems
- Fire Records Management Systems
- EMS Records Management Systems
- Jail Records Management Systems
- LEIN costs for non-9-1-1 functions (e.g., Records unit)
- Word processing, databases, etc. not directly attributable to 9-1-1 service
- GIS not directly related to the delivery of 9-1-1 service
- Court Information Systems
- Connectivity for any of the above
- Maintenance and service agreements for any of the above
- Software licensing for any of the above
- Non-Emergency N-1-1 systems

Vehicle costs (fleet vehicle, pool car, mileage reimbursement, etc.) for law enforcement, fire, or EMS responders, such as patrol cars, fire apparatus, ambulances, etc.

Professional Services not directly attributable to the delivery of 9-1-1 service.

Public Information not directly attributable to the delivery of 9-1-1 service.

Miscellaneous:
Road Signs/Addressing Implements

Emergency Telephone Service Committee
6/21/2005

State 9-1-1 Committee revised
6/23/2009

January 27, 2021

FCC FACT SHEET*[*]*
911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008
Notice of Proposed Rulemaking - PS Docket Nos. 20-291 and 09-14

Background:

Each year people in urgent need of assistance place over 200 million emergency calls to 911 call centers in the United States. Funding for the 911 system is provided in part by dedicated 911 fees established by each state and territory that appear as charges on customer bills for wireless, wireline, and other communications services. Despite the critical importance of 911 service, the Commission's annual reports to Congress on 911 fees show that some states divert a portion of the fees collected for 911 to other purposes.

On December 27, 2020, new federal legislation (the Don't Break Up the T-Band Act of 2020) was signed into law that requires the Commission to take action to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911. In particular, section 902 of the new legislation directs the Commission to issue final rules within 180 days defining what uses of 911 fees by states and taxing jurisdictions constitute 911 fee diversion. The Notice of Proposed Rulemaking seeks comment on proposed rules to implement these provisions.

What the Notice of Proposed Rulemaking Would Do:

- Propose rules that would define the types of expenditures of 911 fees by states and taxing jurisdictions that are acceptable under the criteria established in section 902 and the types of expenditures that constitute 911 fee diversion.
- Propose rules that would allow states and taxing jurisdictions to petition the Commission for a determination that expenditures of 911 fees not previously designated as acceptable by the Commission should be treated as acceptable under section 902.
- Propose a rule providing that any state or taxing jurisdiction identified as a 911 fee diverter in the Commission's annual 911 fee report to Congress would be ineligible to serve on any committee, panel, or council established to advise the First Responder Network Authority (FirstNet) or any advisory committee established by the Commission.
- Propose a rule providing that if a state or taxing jurisdiction receives a federal 911 grant, as a condition of the grant it must provide information that the Commission requires in order to prepare the annual 911 fee report to Congress.

[*] This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in PS Docket Nos. 20-291 and 09-14, which may be accessed via the Electronic Comment Filing System (https://www.fcc.gov/ecfs/). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. *See* 47 CFR § 1.1200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
911 Fee Diversion	)	PS Docket No. 20-291
	)	
New and Emerging Technologies 911 Improvement Act of 2008	)	PS Docket No. 09-14
	)	

NOTICE OF PROPOSED RULEMAKING*

Adopted: [] **Released: []**

Comment Date: (20 days after date of publication in the Federal Register)
Reply Comment Date: (30 days after date of publication in the Federal Register)

TABLE OF CONTENTS

I. INTRODUCTION

1. On December 27, 2020, the President signed the Don't Break Up the T-Band Act of 2020 as part of the Consolidated Appropriations Act, 2021.[1] Section 902 of the new legislation requires the

* This document has been circulated for tentative consideration by the Commission at its February open meeting. The issues referenced in this document and the Commission's ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Acting Chairwoman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission's *ex parte* rules apply and presentations are subject to "permit-but-disclose" *ex parte* rules. *See, e.g.*, 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. *See* 47 CFR §§ 1.1200(a), 1.1203.

Commission to take action to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911. In particular, it directs the Commission to issue final rules, not later than 180 days after the date of enactment of section 902, designating the uses of 911 fees by states and taxing jurisdictions that constitute 911 fee diversion for purposes of 47 U.S.C. § 615a-1, as amended by section 902.[2] In this Notice of Proposed Rulemaking, we propose measures to implement section 902. We seek comment on these measures, which are designed to identify those uses of 911 fees by states and other jurisdictions that support the provision of 911 services.[3]

II. BACKGROUND

2. Congress has had a longstanding concern about the practice by some states and local jurisdictions of diverting 911 fees for non-911 purposes. In the ENHANCE 911 Act of 2004, Congress required states and local jurisdictions receiving federal 911 grants to certify that they were not diverting 911 funds.[4] In the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act), Congress enacted additional measures to limit 911 fee diversion, codified in 47 U.S.C. § 615a-1 (section 615a-1).[5] Specifically, section 615a-1(f)(1) provided that nothing in the NET 911 Act, the Communications Act of 1934,[6] or any Commission regulation or order "shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation . . . for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge."[7]

3. The NET 911 Act also required the Commission to begin reporting annually on the status in each state of the collection and distribution of fees for the support or implementation of 911 or E911 services, including findings on the amount of revenues obligated or expended by each state "for any purpose other than the purpose for which any such fees or charges are specified."[8] Pursuant to this provision, the Commission has reported annually to Congress on 911 fee diversion every year since

(Continued from previous page)
[1] Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division FF, Title IX, Section 902, Don't Break Up the T-Band Act of 2020 (section 902).

[2] Section 902(c)(1)(C).

[3] Comments on this Notice of Proposed Rulemaking are due within 20 days after publication of a summary of the document in the Federal Register, and reply comments are due within 30 days after such publication in the Federal Register. The Commission considers this time period necessary given the 180-day statutory deadline for its rulemaking and given the scope of the issues raised.

[4] Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004, Pub. L. No. 108-494, 118 Stat. 3986 (relevant grant provisions codified as amended at 47 U.S.C. § 942) (*ENHANCE 911 Act*). Congress provided another round of 911 grant funding, with similar non-diversion requirements, in the NG911 Act. Next Generation 9-1-1 Advancement Act of 2012 (Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, Title VI, Subtitle E), 126 Stat. 237 (relevant grant provisions codified at 47 U.S.C. § 942) (*NG911 Act*).

[5] New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 122 Stat. 2620 (*NET 911 Act*). The NET 911 Act enacted 47 U.S.C. § 615a-1 and also amended 47 U.S.C. §§ 222, 615a, 615b, and 942. *See* 47 U.S.C. § 615a-1 Editorial Notes.

[6] 47 U.S.C. § 151 *et seq*.

[7] 47 U.S.C. § 615a-1(f)(1). Under the NET 911 Act, the Commission's annual 911 fee report covers states, as well as U.S. territories and the District of Columbia. *See* 47 U.S.C. § 615b(2).

[8] 47 U.S.C. § 615a-1(f)(2).

2009.[9] All 12 of the annual reports issued to date have identified some states that have diverted 911 fees to other uses.[10]

4. In October 2020, the Commission released a Notice of Inquiry seeking comment on the effects of fee diversion and the most effective ways to dissuade states and jurisdictions from continuing or instituting the diversion of 911/E911 fees.[11] Noting that publicly identifying diverting states in the Commission's annual reports has helped discourage the practice but had not eliminated fee diversion, the Commission sought comment on whether it could take other steps to discourage fee diversion, such as conditioning state and local eligibility for FCC licenses, programs, or other benefits on the absence of fee diversion.[12] The Commission received eight comments and seven reply comments in response to the Notice of Inquiry.[13]

5. The newly enacted section 902 requires the Commission to take additional action with respect to 911 fee diversion. Specifically, section 902(c)(1)(C) adds a new paragraph (3)(A) to section 615a-1(f) that directs the Commission to adopt rules "designating purposes and functions for which the obligation or expenditure of 9-1-1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable" for purposes of section 902 and the Commission's rules.[14] The newly added section 615a-1(f)(3)(B) states that these purposes and functions shall be limited to "the support and implementation of 9-1-1 services" provided by or in the state or taxing jurisdiction imposing the fee or charge, and "operational expenses of public safety answering points" within such state or taxing jurisdiction.[15] The new section also states that, in designating such purposes and functions, the Commission shall consider the purposes and functions that states and taxing jurisdictions specify as the intended purposes and functions for their 911 fees or charges, and "determine whether such purposes and functions directly support providing 9-1-1 services."[16]

6. Section 902 also amends section 615a-1(f)(1) to provide that the rules adopted by the Commission for these purposes will apply to states and taxing jurisdictions that impose 911 fees or

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[9] The Chairman of the Federal Communications Commission submits the annual report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, as mandated by the NET 911 Act and as prepared by the staff in the Public Safety and Homeland Security Bureau. *See* 47 U.S.C. § 155(a) (stating, inter alia, that "[i]t shall be [the Chairman's] duty … to represent the Commission in all matters relating to legislation and legislative reports"). These annual reports can be viewed at https://www.fcc.gov/general/911-fee-reports.

[10] The Twelfth Report found that five states diverted more than $200 million in 911 fees or surcharges for non-911 purposes in 2019, or 6.6% of all fees collected. Federal Communications Commission (FCC), Twelfth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges at 49-50, para. 27, Table 16 (2020) (Twelfth Report), https://www.fcc.gov/files/12thannual911feereport2020pdf. Following release of the Twelfth Report, the Bureau sought "comment on the Twelfth Report and how it should impact the Commission's ongoing proceeding to end the practice of 911 fee diversion by states and localities." *Public Safety and Homeland Security Bureau Seeks Comment on Twelfth Annual Report to Congress on 911 Fee Diversion in Light of Ongoing Proceeding to Deter Such Practices*, PS Docket Nos. 20-291 and 09-14, Public Notice, 35 FCC Rcd 14144 (PSHSB 2020), https://www.fcc.gov/document/pshsb-seeks-comment-twelfth-annual-report-911-and-e911-fees.

[11] *911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008*, PS Docket Nos. 20-291 and 09-14, Notice of Inquiry, 35 FCC Rcd 11010, 11010, para. 1 (2020) (*Fee Diversion NOI*).

[12] *Fee Diversion NOI*, 35 FCC Rcd at 11011, 11016, paras. 5, 16.

[13] These filings can be viewed in the FCC's electronic comment filing system (ECFS) at https://www.fcc.gov/ecfs/, under PS Docket Nos. 20-291 and 09-14.

[14] 47 U.S.C. § 615a-1(f)(3)(A) (as amended).

[15] 47 U.S.C. § 615a-1(f)(3)(B) (as amended); Section 902(c)(1)(C).

[16] 47 U.S.C. § 615a-1(f)(3)(B) (as amended); Section 902(c)(1)(C).

charges. Whereas the prior version of section 615a-1(f)(1) referred to fees or charges "obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, as specified in the provision of State or local law adopting the fee or charge,"[17] the amended version reads as follows:

> Nothing in this Act, the Communications Act of 1934 (47 U.S.C. 151 et seq.), the New and Emerging Technologies 911 Improvement Act of 2008, or any Commission regulation or order shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State, political subdivision thereof, Indian tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act, as amended (85 Stat. 688) for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, or enhancements of such services, *consistent with the purposes and functions designated in the final rules issued under paragraph (3) as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable*.[18]

7. In addition, section 902(c) establishes a process for states and taxing jurisdictions to seek a determination that a proposed use of 911 fees should be treated as having such an acceptable purpose or function even if it is for a purpose or function that has not been designated as such in the Commission's rules.[19] Specifically, newly added section 615a-1(f)(5) provides that a state or taxing jurisdiction may submit to the Commission a petition for a determination that an obligation or expenditure of a 911 fee or charge "for a purpose or function other than a purpose or function designated under [section 615a-1(f)(3)(A)] should be treated as such a purpose or function," i.e., as acceptable for purposes of this provision and the Commission's rules.[20] The new section 615a-1(f)(5) provides that the Commission shall grant the petition if the state or taxing jurisdiction provides sufficient documentation that the purpose or function "(i) supports public safety answering point functions or operations," or "(ii) has a direct impact on the ability of a public safety answering point to . . . (I) receive or respond to 9-1-1 calls; or (II) dispatch emergency responders."[21]

8. Section 902(d) requires the Commission to create an "interagency strike force" to study "how the Federal Government can most expeditiously end diversion" by states and taxing jurisdictions and to report to Congress on its findings within 270 days of the statute's enactment.[22] It further provides that if the Commission obtains evidence that "suggests the diversion by a State or taxing jurisdiction of 9-1-1 fees or charges," the Commission shall submit such information to the strike force.[23] In addition, Section 902(c)(1)(C) provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. § 942) after the date of the enactment of the new legislation, "such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the [annual report

[17] 47 U.S.C. § 615a-1(f)(1) (prior version).

[18] 47 U.S.C. § 615a-1(f)(1) (as amended) (emphasis added); Section 902(c)(1)(A).

[19] 47 U.S.C. § 615a-1(f)(5) (as amended); Section 902(c)(1)(C).

[20] *Id*.

[21] 47 U.S.C. § 615a-1(f)(5) (as amended); Section 902(c)(1)(C).

[22] Section 902(d)(3).

[23] Section 902(d)(1). In addition, Section 902(d)(2) provides that, beginning with the first annual fee report "that is required to be submitted after the date that is 1 year after the date of the enactment of this Act," the Commission shall include in each report "all evidence that suggests the diversion by a State or taxing jurisdiction of 9-1-1 fees or charges, including any information regarding the impact of any underfunding of 9-1-1 services in the State or taxing jurisdiction."

to Congress on 911 fees]."[24] Finally, section 902(d)(4) prohibits any state or taxing jurisdiction identified as a fee diverter in the Commission's annual report from participating or sending a representative to serve on any committee, panel, or council established to advise the First Responder Network Authority (FirstNet) under 47 U.S.C. § 1425(a) or any advisory committee established by the Commission.[25]

9. Section 902 does not impose any requirement on states or taxing jurisdictions to impose any fee in connection with the provision of 911 service. As revised, the proviso to Section 615a-1 states that nothing in the Act or the Commission's rules "shall prevent the imposition and collection of a fee or charge applicable to commercial mobile services or IP-enabled voice services" specifically designated by the taxing jurisdiction "for the support or implementation of 9-1-1 or enhanced 9-1-1 services, provided that the fee or charge is obligated or expended only in support of 9-1-1 and enhanced 9-1-1 services, consistent with the purposes and functions designated in [the Commission's forthcoming rules] as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable."[26]

III. DISCUSSION

10. With this Notice of Proposed Rulemaking, we propose rules to implement the provisions of section 902 that require Commission action. Specifically, we propose to amend part 9 of our rules to establish a new subpart I that would address 911 fees and fee diversion in accordance with and for the purposes of the statute. Accordingly, we propose to (1) adopt rules that clarify what does and does not constitute the kind of diversion of 911 fees that has concerned Congress (and the Commission), (2) establish a declaratory ruling process for providing further guidance to states and taxing jurisdictions on fee diversion issues, and (3) codify the specific restrictions that section 902 imposes on states and taxing jurisdictions that engage in diversion as defined by our rules (i.e., a reporting requirement upon which eligibility for NTIA grants are to be conditioned, and the exclusion from eligibility to participate on certain committees, panels, councils, and Commission advisory commissions). We tentatively conclude that these proposed changes to part 9 would further Congress's stated objectives in section 902 in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunications services or to state and taxing jurisdictions. We seek comment on this tentative conclusion and on the proposed changes we set forth below.

A. Definitions and Applicability

11. As a preliminary matter, we note that section 902 defines certain terms relating to 911 fees and fee diversion. To promote consistency, we propose to codify these definitions in our rules with certain modifications, as described below. We seek comment on these proposed definitions.

12. *911 fee or charge*. Section 902 defines "9-1-1 fee or charge" as "a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State or taxing jurisdiction for the support or implementation of 9-1-1 services."[27] We propose to codify this definition in our rules. However, we note that the statutory definition in section 902 does not address services that may be subject to 911 fees other than Commercial Mobile Radio Services (CMRS) and IP-enabled voice services. The reason for this omission is unclear. For example, virtually all states impose 911 fees on wireline telephone services and have provided information on such fees for inclusion in the Commission's annual fee reports. In addition, as 911 expands beyond voice to include text and other non-voice applications, states could choose to extend 911 fees to such services in the future.[28]

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[24] 47 U.S.C. § 615a-1(f)(4) (as amended); Section 902(c)(1)(C).

[25] Section 902(d)(4).

[26] 47 U.S.C. § 615a-1(f)(1) (as amended); Section 902(c)(1)(A).

[27] 47 U.S.C. § 615a-1(f)(3)(d) (as amended); Section 902(c)(1)(C), (f)(1).

[28] For example, the Commission has extended 911 obligations to providers of text messaging services. *See Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, PS Docket Nos. 10-255

(continued….)

13. To promote regulatory parity and avoid gaps that could inadvertently frustrate the rapid deployment of effective 911 services, including advanced Next Generation 911 (NG911) services, we propose to define "911 fee or charge" in our rules to include fees or charges applicable to "other emergency communications services" as defined in section 201(b) of the NET 911 Act. Under the NET 911 Act, the term "other emergency communications service" means "the provision of emergency information to a public safety answering point via wire or radio communications, and may include 9-1-1 and enhanced 9-1-1 service."[29] The proposed modification will make clear that the rules in subpart I extend to all communications services regulated by the Commission that provide emergency communications, including wireline services, and not just to commercial mobile services and IP-enabled voice services.

14. We tentatively conclude that adoption of this proposed expanded definition of "911 fee or charge" is reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities under section 902 and other federal 911-related statutes that, taken together, establish an overarching federal interest in ensuring the effectiveness of the 911 system.[30] The Commission's general jurisdictional grant includes the responsibility to set up and maintain a comprehensive and effective 911 system, encompassing a variety of communication services in addition to CMRS and IP-enabled voice services. Section 251(e)(3) of the Communications Act of 1934, which directs the Commission to designate 911 as the universal emergency telephone number, states that the designation of 911 "shall apply to both wireline and wireless telephone service," which evidences Congress's intent to grant the Commission broad authority over different types of communications services in the 911 context.[31] Similarly, RAY BAUM'S Act directed the Commission to consider adopting rules to ensure that dispatchable location is conveyed with 911 calls "regardless of the technological platform used."[32] In addition, section 615a-1(e)(2) provides that the Commission "shall enforce this section as if this section was a part of the Communications Act of 1934 [47 U.S.C. 151 et seq.]" and that "[f]or purposes of this section, any violations of this section, or any regulations promulgated under this section, shall be considered to be a violation of the Communications Act of 1934 or a regulation promulgated under that Act, respectively."[33]

(Continued from previous page)
and 11-153, Report and Order, 28 FCC Rcd 7556 (2013) (*Bounce-Back Report and Order*) (requiring covered text providers to provide consumers attempting to send a text to 911 with an automatic bounce-back message when the service is unavailable); *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153 and 10-255, Second Report and Order and Third Further Notice of Proposed Rulemaking, 29 FCC Rcd 9846 (2014) (*Text-to-911 Second Report and Order*) (requiring covered text providers to implement text-to-911 service no later than June 30, 2015 or six months from the date of a PSAP's request, whichever is later). Further, in RAY BAUM'S Act, which directed the Commission to consider adopting rules to ensure that dispatchable location is conveyed with 911 calls, Congress specifically defined the term "9-1-1 call" to include a voice call "or a message that is sent by other means of communication." *See* Section 506 of the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (*RAY BAUM'S Act*), Pub. L. No. 115-141, 132 Stat. 348, 1095 (codified at 47 U.S.C. § 615 note).

[29] 47 U.S.C. § 615b(8).

[30] *See, e.g.*, *Comcast Corp. v. FCC*, 600 F.3d 642, 646-47 (D.C. Cir. 2010).

[31] 47 U.S.C. § 251(e)(3). Section 251(e)(3) was added as part of the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (1999) (911 Act), which established 911 as the national emergency number and required the Commission to provide for appropriate transition periods for areas in which 911 was not in use. Congress broadly stated the purpose of the 911 Act as "to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs." 911 Act § 2(b), codified at 47 U.S.C.§ 615 note.

[32] *See RAY BAUM'S Act*.

[33] 47 U.S.C. § 615a-1(e)(2).

15. Based on the foregoing, we tentatively conclude that including "other emergency communications services" within the scope of the definition of 911 fees we propose is also reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities for ensuring that the 911 system, including 911, E911, and NG911 calls and texts from any type of service, is available, that these 911 services function effectively, and that 911 fee diversion by states and other jurisdictions does not detract from these critical, statutorily recognized purposes.[34] Diverting fees collected for 911 service of any type, whether it be wireline, wireless, IP based, or text, undermines the purpose of these federal statutes by depriving the 911 system of the funds it needs to function effectively and to modernize 911 operations.[35] We seek comment on this tentative conclusion and on the extent to which our proposed rules would strengthen the effectiveness of a nationwide 911 service.

16. In addition, we seek comment on extending the definition of "911 fee or charge" to include fees or charges designated for the support of "public safety," "emergency services," or similar purposes if the purposes or allowable uses of such fees or charges include the support or implementation of 911 services.[36] This would be consistent with the approach taken in the agency's annual fee reports, which found that the mere labelling of a fee is not dispositive and that one must examine the underlying purpose of the fee to determine whether it is (or includes) a 911 fee within the meaning of the NET 911

[34] *See, e.g.*, 47 U.S.C. § 151 *et seq*.; 47 U.S.C. § 601; *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996); 911 Act § 3(a), and as codified at 47 U.S.C. §§ 222, 251, 615, 615a, 615b; 47 CFR § 64.3000 *et seq*., renumbered as 47 CFR § 9.4 *et seq*.; 47 CFR § 20.18, renumbered as 47 CFR § 9.10; 47 CFR § 9.1 *et seq*., renumbered as 47 CFR § 9.11 *et seq*.; *IP-Enabled Services*; *E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36 and 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245 (2005); *Nuvio Corp. v. FCC*, 473 F.3d 302, 312 (D.C. Cir. 2007) (Kavanaugh, J., concurring); NET 911 Act, as codified at §§ 222, 615a, 615a-1, 615b, 942; CVAA § 106, as codified in part at 47 U.S.C. § 615c(a), (g); *Bounce-Back Report and Order*; *Text-to-911 Second Report and Order*; *NG911 Act* §§ 6503-6509, and as codified at 47 U.S.C. §§ 942, 1471-1473; Kari's Law Act of 2017, Pub. L. No. 115-127, 132 Stat. 326 (2018), codified at 47 U.S.C. § 623; *RAY BAUM'S Act*, codified at 47 U.S.C. § 615 note; *Implementing Kari's Law and Section 506 of RAY BAUM'S Act*; *911 Access, Routing, and Location in Enterprise Communications Systems*; *Amending the Definition of Interconnected VoIP Service in Section 9.3 of the Commission's Rules*, PS Docket Nos. 18-261 and 17-239, GN Docket No. 11-117, Report and Order, 34 FCC Rcd 6607 (2019), *corrected by* Erratum, 34 FCC Rcd 11073 (PSHSB Dec. 2, 2019).

[35] The 2016 report of the Task Force on Optimal PSAP Architecture (TFOPA) recounted how fee diversion practices have "delayed plans in several states to meet the deployment schedule for the transition to an NG9-1-1 system." *See* TFOPA Report at 153-154; *see generally* Legal and Regulatory Framework for Next Generation 911 Services, Report and Recommendations, at Sec. 4.1.4 (2013) (Report to Congress Pursuant to the Next Generation 911 Advancement Act of 2012 (Pub. L. No. 112-96 (2012)), https://www.911.gov/pdf/FCC_Report_Legal_Regulatory_Framework_NG911_Services_2013.pdf. Other commenters have noted instances of fee diversion resulting in the delay of 911 improvements. *See* New Jersey Wireless Association Reply Comments, PS Docket No. 09-14, at 2 (rec. Feb. 12, 2019) (noting that instead of upgrading to NG911 technology, New Jersey is maintaining a 911 selective router system that is "past its useful life and is now costing more to maintain from previous years, due to its obsolescence"); Letter from Matthew Grogan, 1st Vice President, Nevada APCO at 1 (Feb. 15, 2019) (noting that Nevada 911 funds have been used to purchase police body cameras at a time when "several counties and jurisdictions … are still not equipped with enhanced 9-1-1 services"), https://www.leg.state.nv.us/App/NELIS/REL/80th2019/ExhibitDocument/OpenExhibitDocument?exhibitId=36516&fileDownloadName=SB%2025_Testimony%20in%20Opposition_Matthew%20Grogan%20Nevada%20Fee%20Diversion.pdf.

[36] We also propose a safe harbor in the rules providing that the obligation or expenditure of such fees or charges will not constitute diversion so long as the state or taxing jurisdiction: (1) specifies the amount or percentage of such fees or charges that is dedicated to 911 services; (2) ensures that the 911 portion of such fees or charges is segregated and not commingled with any other funds; and (3) obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section. *See infra* para. 28.

Act.[37] We seek comment on these conclusions.

17. We propose that for purposes of implementing section 902, our definition of "911 fee or charge" should similarly extend to fees or charges that are expressly identified by the state or taxing jurisdiction as supporting 911, even if the fee is not labelled as a 911 fee. We tentatively conclude that this is consistent with the purpose of section 902 with respect to diversion of 911 fees and charges.[38] We seek comment on this proposal. Does the proposed definition of 911 fees or charges capture the universe of 911 fees or charges that can be diverted? Is the definition overinclusive or underinclusive? Are there other modifications to the definition that would help to prevent 911 fee diversion?

18. *Diversion*. Section 902(f) defines "diversion" as follows:

> The term "diversion" means, with respect to a 9-1-1 fee or charge, the obligation or expenditure of such fee or charge for a purpose or function other than the purposes and functions designated in the final rules issued under paragraph (3) of section 6(f) of the Wireless Communications and Public Safety Act of 1999, as added by this Act, as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable.[39]

We propose to codify this definition, with minor changes to streamline it. Specifically, we propose to define diversion as "[t]he obligation or expenditure of a 911 fee or charge for a purpose or function other than the purposes and functions designated by the Commission as acceptable pursuant to [the applicable rule section in subpart I]."[40] In addition, we propose to clarify that diversion also includes distribution of 911 fees to a political subdivision that obligates or expends such fees for a purpose or function other than those designated by the Commission. We believe this provision will clarify that states and taxing jurisdictions are also responsible for diversion of 911 fees by political subdivisions, such as counties, that may receive 911 fees. We seek comment on these proposals.

19. *State or taxing jurisdiction*. Section 902 defines a state or taxing jurisdiction as "a State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)."[41] We propose to codify this definition in our rules. We note that the existing language in section 615a-1 directs the Commission to submit an annual report to Congress on the use of 911 fees by "each State or political subdivision thereof," and section 902 does not revise this language. We also note that section 902 does not alter the definition of "State" in the existing legislation. Under section 615b, the term "State" means "any of the several States, the District of Columbia, or any territory or possession of the United States."[42] Accordingly, provisions in subpart I that apply to any "State or taxing jurisdiction" would apply to the District of Columbia and any United States territory or possession as well. To clarify this and to assist users of the regulations, we propose to add the definition of State to subpart I.

20. Regarding the scope of proposed subpart I, we propose that the rules apply to states or taxing jurisdictions that collect 911 fees or charges (as defined in that subpart) from commercial mobile

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[37] *E.g.*, Twelfth Report at 51-52, para. 31 ("We do not agree that a fee or charge must be exclusively designated for 911 or E911 purposes in order to constitute a fee or charge 'for the support or implementation of 9-1-1 or enhanced 9-1-1 services' under section 6(f)(1) of the NET 911 Act."); *see also* Eleventh Report at 43, para. 34.

[38] *See, e.g.*, Section 902(c), codified at 47 U.S.C. § 615a-1(f)(3)(A).

[39] Section 902(f)(4).

[40] As proposed for the new Subpart I, "[a]cceptable purposes and functions for the obligation or expenditure of 911 fees or charges are limited to: (1) Support and implementation of 911 services provided by or in the State or taxing jurisdiction imposing the fee or charge; and (2) Operational expenses of public safety answering points within such State or taxing jurisdiction."

[41] 47 U.S.C. § 615a-1(f)(3)(d) (as amended); Section 902(c)(1)(C), (f)(5).

[42] 47 U.S.C. § 615b(2).

services, IP-enabled voice services, and other emergency communications services. And as the proposed definitions make clear, such fees or charges would include fees or charges designated for the support of public safety, emergency services, or similar purposes if the purposes or allowable uses of such fees or charges include the support or implementation of 911 services. We seek comment on these proposals.

B. Designation of Obligations or Expenditures Acceptable for Purposes of Section 902

21. Section 902 requires the Commission to issue rules "designating purposes and functions for which the obligation or expenditure of 9-1-1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable" for purposes of the statute.[43] In addition, section 902 provides that the purposes and functions designated as acceptable for such purposes "shall be limited to the support and implementation of 9-1-1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction."[44] Section 902 also provides that the Commission shall consider the purposes and functions that states and taxing jurisdictions specify as their intended purposes and "determine whether such purposes and functions directly support providing 9-1-1 services."[45] Moreover, Section 902 provides states and taxing authorities with the right to file a petition with the Commission for a determination that an obligation or expenditure of a 911 fee or charge that is imposed for a purpose or function other than those designated as acceptable for purposes of the statute in the Commission rules should nevertheless be treated as having an acceptable purpose or function for such purposes.[46]

22. We propose to codify the statutory standard for acceptable purposes and functions for the obligation or expenditure of 911 fees or charges by providing that acceptable purposes and functions for purposes of the statute are limited to (1) support and implementation of 911 services provided by or in the state or taxing jurisdiction imposing the fee or charge, and (2) operational expenses of PSAPs within such state or taxing jurisdiction. This proposed language tracks the language in section 902.[47] In addition, we propose to specify in the rules that examples of such acceptable purposes and functions include, but are not limited to, the following, provided that the state or taxing jurisdiction can adequately document that it has obligated or spent the fees or charges in question for these purposes and functions:

(1) PSAP operating costs, including lease, purchase, maintenance, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility;

(2) PSAP personnel costs, including telecommunicators' salaries and training;

(3) PSAP administration, including costs for administration of 911 services and travel expenses associated with the provision of 911 services;

(4) Integrating public safety/first responder dispatch and 911 systems, including lease, purchase, maintenance, and upgrade of CAD hardware and software to support integrated 911 and public safety dispatch operations; and

[43] 47 U.S.C. § 615a-1(f)(3)(A).

[44] 47 U.S.C. § 615a-1(f)(3)(B).

[45] 47 U.S.C. § 615a-1(f)(3)(B).

[46] 47 U.S.C. § 615a-1(f)(5). Such a petition must be granted if the Commission finds that the State or taxing jurisdiction has provided sufficient documentation to demonstrate that the purpose or function in question supports PSAP functions or operations, or that the purpose or function has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. *Id.*

[47] *See* 47 U.S.C. § 615a-1(f)(3)(B) (as amended); Section 902(c)(1)(C) (stating that "[t]he purposes and functions designated [by the Commission] shall be limited to the support and implementation of 9-1-1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction").

(5) Providing for the interoperability of 911 systems with one another and with public safety/first responder radio systems.

23. We believe these purposes and functions are consistent with the general standard for designating acceptable uses of 911 fees and charges set out in section 902. They also are consistent with the Commission's past analysis of 911 fee diversion in its annual fee reports, and, as required under section 902, they reflect the Commission's consideration of the purposes and functions that states have specified for their 911 fees and charges. In particular, the Commission has stated in its annual fee reports that the requisite nexus to 911 includes expenditures that (1) support PSAP functions or operations, (2) have a reasonable nexus to PSAPs' ability to receive 911 calls and/or dispatch emergency responders, or (3) relate to communications infrastructure that connects PSAPs (or otherwise ensures the reliable reception and processing of emergency calls and their dispatch to first responders).[48] In addition, the Commission has stated that expenses associated with integrating public safety dispatch and 911 systems (e.g., purchase of CAD hardware and software to support integrated 911 and dispatch operations) may be 911 related, provided the state or other jurisdiction can document a connection to 911.[49] We seek comment on our proposed inclusion of these examples of acceptable purposes and functions and any additional examples that should be specified in the rules.

24. We also seek comment on specifying certain examples of purposes and functions that are *not* acceptable for the obligation or expenditure of 911 fees or charges for purposes of the statute. These would include, but are not limited to:

(1) Transfer of 911 fees into a state or other jurisdiction's general fund or other fund for non-911 purposes;

(2) Equipment or infrastructure for constructing or expanding non-public safety communications networks (e.g., commercial cellular networks); and

(3) Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities, including public safety radio equipment and infrastructure, that does not have a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders.

25. Identifying these examples as unacceptable expenditures for purposes of the statute is consistent with the manner in which such expenditures were analyzed in our annual 911 fee reports. For example, the fee reports have repeatedly found that transferring 911 fees to the state's general fund or using 911 fees for the expansion of commercial cellular networks constitutes fee diversion.[50] The fee reports also have found that expenditures to support public safety radio systems, including maintenance, upgrades, and new system acquisitions, are not 911 related.[51] The Eleventh Report explained that the purchase or upgrade of public safety radio equipment was not considered to be 911 related because "radio networks used by first responders are technically and operationally distinct from the 911 call-handling

[48] *See* Tenth Report at 49, para. 40. Under this analysis, funding for 911 dispatcher salaries and training would have a sufficient nexus to 911, but equipment and infrastructure for law enforcement, firefighters, and other first responders generally would not. *See also* Eleventh Report at 74, para. 59 ("CTIA supports the Commission in requiring documentation sufficient to demonstrate that the expenditures (1) support PSAP functions or operations, (2) have a reasonable nexus to PSAPs' ability to receive 9-1-1 calls and/or dispatch emergency responders, or (3) relate to communications infrastructure that connects PSAPs.").

[49] *See* Twelfth Report at 48-49, para. 26; Eleventh Report at 39, para. 26; Tenth Report at 42, para. 26.

[50] *E.g.*, Twelfth Report at 52-54, paras. 32, 35, 37; Eleventh Report at 40, 42-43, paras. 28, 32, 35; Tenth Report at 43-44, 46-47, paras. 30, 32, 35, 37.

[51] *See* Twelfth Report at 48-49, para. 26; Eleventh Report at 39, para. 26; Tenth Report at 42, para. 26.

system."[52] We seek comment on whether we should reexamine any of these prior findings in light of the impact of the coronavirus pandemic on public safety and emergency communications services, if any.

26. Our proposed designation of acceptable purposes and functions for purposes of the statute is also consistent with the legislative history of the NET 911 Act. In its report on H.R. 3403 (the bill that was enacted as the NET 911 Act), the House Committee on Energy and Commerce noted that several states were known to be using 911 fees for "purposes other than 911 or emergency communications services."[53] The Report also noted that under section 6(f) of the proposed legislation, "[s]tates and their political subdivisions should use 911 or E-911 fees only for direct improvements to the 911 system. Such improvements could include improving the technical and operational aspects of PSAPs; establishing connections between PSAPs and other public safety operations, such as a poison control center; or implementing the migration of PSAPs to an IP-enabled emergency network."[54] Further, "[t]his provision is not intended to allow 911 or E-911 fees to be used for other public safety activities that, although potentially worthwhile, are not directly tied to the operation and provision of emergency services by the PSAPs."[55]

27. We seek comment on our proposed designation of acceptable purposes and functions under the statute. Are the proposed purposes and functions that would be deemed acceptable overinclusive or underinclusive? If the proposed purposes are overinclusive, commenters should explain how and why. What purposes and functions have states and taxing jurisdictions specified as the intended functions for 911 fees and charges, and how should we take these specifications into account as we designate acceptable purposes and functions under section 902? CTIA contends that allowable 911 expenditures should include the nonrecurring costs of establishing a 911 system, the cost of emergency telephone and dispatch equipment, and costs for training for maintenance and operation of the 911 system but should exclude costs for leasing real estate, cosmetic remodeling of facilities, salaries or benefits, or emergency vehicles.[56] The Commission has found in its 911 fee reports, however, that some PSAP overhead costs, such as 911 telecommunicator salaries, are 911 related.[57] To the extent that the proposed purposes and functions are underinclusive, commenters should identify what additional purposes and functions should be deemed acceptable, and why.

28. We also propose to define acceptable purposes and functions under section 902 for states and taxing jurisdictions that impose multi-purpose fees or charges intended to support 911 services as well as other public safety purposes. In such instances, we believe states and taxing jurisdictions should have the flexibility to apportion the collected funds between 911-related and non-911 related programs, but that safeguards are needed to ensure that such apportionment is not subject to manipulation that would constitute fee diversion. We therefore propose to adopt a safe harbor in our rules providing that the obligation or expenditure of such fees or charges will not constitute diversion so long as the state or taxing jurisdiction: (1) specifies the amount or percentage of such fees or charges that is dedicated to 911 services; (2) ensures that the 911 portion of such fees or charges is segregated and not commingled with

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[52] *See* Eleventh Report at 42, para. 32; *see also* Eleventh Report at 44, para. 37 (finding that there was no 911 fee diversion where Virginia allocated a portion of its wireless E911 funding to the Virginia State Police for costs incurred for answering wireless 911 telephone calls and to support sheriff's 911 dispatchers).

[53] *See* House of Representatives Committee on Energy and Commerce, Report on 911 Modernization and Public Safety Act of 2007 at 11 (Nov. 13, 2007), https://www.congress.gov/110/crpt/hrpt442/CRPT-110hrpt442.pdf ("The most recent data available indicate that four states use 911 fees, including wireless and wireline fees, for purposes other than 911 or emergency communications services.").

[54] *Id.* at 15.

[55] *Id.*

[56] CTIA Comments on NOI at 5-6.

[57] *See, e.g.*, Eleventh Report at 21, para. 18; Tenth Report at 44-45, para. 33.

any other funds; and (3) obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section. This provision would provide transparency in the use of 911 fees when a state or taxing jurisdiction collects a fee for both 911 and non-911 purposes. It would also enable the Commission to verify through the annual fee report data collection that the 911 portion of such fees or charges is not being diverted.[58]

29. We seek comment on our proposal for determining whether there is diversion of a fee or charge collected for both 911 and non-911 purposes. Are the measures we propose sufficient to provide transparency with respect to diversion in the use of such fees? Are there other measures that would help ensure that 911 fees or charges are fully traceable in states or taxing jurisdictions with such funding mechanisms? In addition, some state laws and regulations provide that any excess 911 funds left over after all 911 expenditures have been covered can be used for non-911 related purposes.[59] Similarly, some state laws and regulations provide that if the 911 service is *discontinued*, the remaining 911 funds can be disbursed to non-911 uses, such as a general fund. Does the existence or implementation of such provisions for non-911 related disbursements constitute diversion?

C. Petition for Determination

30. Section 902(c)(1)(C) provides that a state or taxing jurisdiction may petition the Commission for a determination that "an obligation or expenditure of a 911 fee or charge for a purpose or function other than a purpose or function designated as 911-related under paragraph (3)(A) [support for 911 services/PSAP expenditures] should be treated as such a purpose or function."[60] The state or taxing jurisdiction must demonstrate that the expenditure: (1) "supports public safety answering point functions or operations," or (2) has a direct impact on the ability of a public safety answering point to "receive or respond to 911 calls" or to "dispatch emergency responders."[61] If the Commission finds that the state or taxing jurisdiction has provided sufficient documentation to make this demonstration, section 902 provides that the Commission shall grant the petition.[62]

31. We propose to codify these provisions in new subpart I of the rules. We believe Congress intended this petition process to serve as a safety valve allowing states to seek further refinement of the definition of obligations and expenditures that are considered 911 related. At the same time, the proposed rule would set clear standards for what states must demonstrate to support a favorable ruling, including the requirement to provide sufficient documentation. To promote efficiency in reviewing such petitions, we also propose that states or taxing jurisdictions seeking such a determination

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[58] This proposal is consistent with the agency's review of the U.S. Virgin Islands' "Emergency Service" surcharge, which is dedicated for both 911 and non-911 purposes. The Eleventh Report noted that under the U.S. Virgin Islands' statute, surcharge funds are deposited in an Emergency Service Fund (ESF), with ESF funds allocated 40% to the Virgin Islands Emergency Management Agency (VITEMA) and the other 60% allocated to other specific public safety, non-911 uses. *See* Eleventh Report at 44-45, paras. 39-40. In addition, the percentage of the ESF allocated to VITEMA must be used entirely for 911/E911 support of PSAPs, and the ESF cannot be commingled with or redirected to the general fund or any other account. *See id*. at 45, para. 40. The Commission concluded that the collection and use of these surcharge funds did not constitute diversion of 911 fees. *See* Eleventh Report at 44-45, paras. 39-40.

[59] The Task Force on Optimal PSAP Architecture (TFOPA) report noted, "The legislative practice of sweeping uncommitted balances of 9-1-1-related accounts, especially those intended to fund NG9-1-1 system infrastructure generally occurs quietly without much public scrutiny." FCC, Task Force on Optimal PSAP Architecture (TFOPA), Final Report at 153-154 (Jan. 29, 2016), https://www.fcc.gov/about-fcc/advisory-committees/general/task-force-optimal-public-safety-answering-point (TFOPA Final Report). The TFOPA Final Report proposed measures to deter such sweeps and advised "there should ultimately be consequences for *repeated* diversions." *Id*. at 161-162.

[60] 47 U.S.C. § 615a-1(f)(5)(A).

[61] 47 U.S.C. § 615a-1(f)(5)(B).

[62] 47 U.S.C. § 615a-1(f)(5)(A).

must do so by filing a petition for declaratory ruling under section 1.2 of the Commission's rules.[63] The declaratory ruling process would promote transparency regarding the ultimate decisions about 911 fee revenues that legislatures and executive officials make and how such decisions promote effective 911 services and deployment of NG911. Consistent with the declaratory ruling process outlined in section 1.2(b), we anticipate docketing the petition within an existing or new proceeding.[64] In addition, we anticipate the Public Safety and Homeland Security Bureau will seek comment on petitions via public notice and with a comment and reply comment cycle.[65] We propose to delegate authority to the Bureau to rule on these petitions. We seek comment on these proposals and on any possible alternative processes for entertaining such petitions.

D. Other Section 902 Provisions

32. Pursuant to section 902(d)(4), any state or taxing jurisdiction identified by the Commission in the annual 911 fee report as engaging in diversion of 911 fees or charges "shall be ineligible to participate or send a representative to serve on any committee, panel, or council established under section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 . . . or any advisory committee established by the Commission."[66] We propose to codify this restriction in subpart I and seek comment on this proposal. We also seek comment on the extent to which state and local governments currently diverting 911 fees (based on the Commission's most recent report) now participate in such Commission advisory committees and the impact on them from being prohibited from doing so. Would it be helpful to provide a mechanism for states and taxing jurisdictions to raise questions regarding their eligibility to serve on an advisory committee?

33. Section 902(c)(1)(C) also provides that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after the date of enactment of Section 902, "such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare [the annual report to Congress on 911 fees]."[67] We propose to codify this provision in subpart I and seek comment on this proposal. What effect does this statutory provision and its proposed codification in the Commission's rules have on states or taxing jurisdictions that receive such grants? Does this provision, combined with other statutory anti-diversion restrictions that already apply to 911 grant recipients, increase the likelihood that diverting states and taxing jurisdictions will change their diversion practices?[68] Are there any aspects of our proposed implementation of section 902 that might create obstacles to state fiscal needs?

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[63] *See* 47 CFR § 1.2.

[64] *See* 47 CFR § 1.2(b).

[65] *See* 47 CFR § 1.2(b).

[66] Section 902(d)(4) (internal citations omitted). The committees, panels, and councils referred to in section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 are those established to assist FirstNet. *See* 47 U.S.C. § 1425.

[67] 47 U.S.C. § 615a-1(f)(4) (as amended); Section 902(c)(1)(C).

[68] The ENHANCE 911 Act authorizes matching grants for eligible projects, required grant applicants to certify that no portion of 911 charges were obligated or expended for "any purpose other than the purposes for which such charges are designated or presented." *See ENHANCE 911 Act* (codified at 47 U.S.C. § 942(c)(2)). The Middle Class Tax Relief and Job Creation Act of 2012 requires grant recipients that improperly obligated or expended designated 911 charges to return all granted funds to the 9-1-1 Implementation Coordination Office. Sec. 6503, § 158(c)(3), 126 Stat. at 239 (codified at 47 U.S.C. § 942(c)(3)).

IV. PROCEDURAL MATTERS

34. *Initial Paperwork Reduction Act of 1995 Analysis*. This Notice of Proposed Rulemaking may contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995.[69] If the Commission adopts any new or modified information collection requirements, they will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,[70] we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."[71]

35. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA),[72] requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."[73] Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this Notice of Proposed Rulemaking. The IRFA is contained in Appendix B.

36. *Ex Parte Presentations—Permit-But-Disclose*. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[74] 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* 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 filing 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 section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules 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.

37. *Comment 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 on or before the dates indicated on the first page of this document in CG Docket No. 02-278. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).[75]

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[69] Pub. L. No. 104-13.

[70] Public Law 107-198.

[71] 44 U.S.C. § 3506(c)(4).

[72] 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[73] *Id.* § 605(b).

[74] 47 CFR §§ 1.1200 *et seq.*

[75] *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://apps.fcc.gov/ecfs/.

- 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 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.

  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.

  - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020), https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.

38. *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).

39. *Additional Information.* For additional information on this proceeding, contact Brenda Boykin, Brena.Boykin@fcc.gov or 202-418-2062, or John A. Evanoff, John.Evanoff@fcc.gov or 202-418-0848 of the Public Safety and Homeland Security Bureau, Consumer Policy Division.

V. ORDERING CLAUSES

40. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 4(o), 201(b), 251(e), 301, 303(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 154(o), 201(b), 251(e), 301, 303(b), and 303(r), the Don't Break Up The T-Band Act of 2020, Section 902 of Title IX, Division FF of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Section 101 of the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 47 U.S.C. § 615a-1, and the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 47 U.S.C. §§ 615 note, 615, 615a, and 615b, that this *Notice of Proposed Rulemaking* is hereby ADOPTED.

41. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the *Notice of Proposed Rulemaking* on or before 20 days after publication in the Federal Register, and reply comments on or before 30 days after publication in the Federal Register.

42. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Proposed Rules

The Federal Communications Commission proposes to amend part 9 of Title 47 of the Code of Federal Regulations as follows:

PART 9 – 911 Requirements

1. Revise the authority citation for part 9 to read as follows: [TO BE INSERTED PRIOR TO FEDERAL REGISTER PUBLICATION]

2. Amend part 9 by adding subpart I to read as follows:

Subpart I – 911 Fees

Sec.
9.21 Applicability.
9.22 Definitions.
9.23 Designation of acceptable obligations or expenditures.
9.24 Petition regarding additional purposes and functions.
9.25 Participation in annual fee report data collection.
9.26 Advisory committee participation.

§ 9.21 Applicability.

The rules in this subpart I apply to States or taxing jurisdictions that collect 911 fees or charges (as defined in this subpart) from commercial mobile services, IP-enabled voice services, and other emergency communications services.

§ 9.22 Definitions.

For purposes of this subpart I, the terms below have the following meaning:

911 fee or charge. A fee or charge applicable to commercial mobile services, IP-enabled voice services, or other emergency communications services specifically designated by a State or taxing jurisdiction for the support or implementation of 911 services. A 911 fee or charge shall also include a fee or charge designated for the support of public safety, emergency services, or similar purposes if the purposes or allowable uses of such fee or charge include the support or implementation of 911 services.

Diversion. The obligation or expenditure of a 911 fee or charge for a purpose or function other than the purposes and functions designated by the Commission as acceptable pursuant to § 9.23. Diversion also includes distribution of 911 fees to a political subdivision that obligates or expends such fees for a purpose or function other than those designated as acceptable by the Commission pursuant to § 9.23.

Other emergency communications services. The provision of emergency information to a public safety answering point via wire or radio communications, and may include 911 and E911 service.

State. Any of the several States, the District of Columbia, or any territory or possession of the United States.

State or taxing jurisdiction. A State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

§ 9.23 Designation of acceptable obligations or expenditures.

(a) Acceptable purposes and functions for the obligation or expenditure of 911 fees or charges are limited to:

(1) Support and implementation of 911 services provided by or in the State or taxing jurisdiction imposing the fee or charge; and

(2) Operational expenses of public safety answering points within such State or taxing jurisdiction.

(b) Examples of acceptable purposes and functions include, but are not limited to, the following, provided that the State or taxing jurisdiction can adequately document that it has obligated or spent the fees or charges in question for these purposes and functions:

(1) PSAP operating costs, including lease, purchase, maintenance, and upgrade of customer premises equipment (CPE) (hardware and software), computer aided dispatch (CAD) equipment (hardware and software), and the PSAP building/facility;

(2) PSAP personnel costs, including telecommunicators' salaries and training;

(3) PSAP administration, including costs for administration of 911 services and travel expenses associated with the provision of 911 services;

(4) Integrating public safety/first responder dispatch and 911 systems, including lease, purchase, maintenance, and upgrade of CAD hardware and software to support integrated 911 and public safety dispatch operations;

(5) Providing for the interoperability of 911 systems with one another and with public safety/first responder radio systems.

(c) Examples of purposes and functions that are not acceptable for the obligation or expenditure of 911 fees or charges include, but are not limited to, the following:

(1) Transfer of 911 fees into a State or other jurisdiction's general fund or other fund for non-911 purposes;

(2) Equipment or infrastructure for constructing or expanding non-public safety communications networks (e.g., commercial cellular networks);

(3) Equipment or infrastructure for law enforcement, firefighters, and other public safety/first responder entities, including public safety radio equipment and infrastructure, that does not have a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders.

(d) If a State or taxing jurisdiction collects fees or charges designated for "public safety," "emergency services," or similar purposes that include the support or implementation of 911 services, the obligation or expenditure of such fees or charges shall not constitute diversion provided that the State or taxing jurisdiction:

(1) Specifies the amount or percentage of such fees or charges that is dedicated to 911 services;

(2) Ensures that the 911 portion of such fees or charges is segregated and not commingled with any other funds; and

(3) Obligates or expends the 911 portion of such fees or charges for acceptable purposes and functions as defined under this section.

§ 9.24 Petition regarding additional purposes and functions.

(a) A State or taxing jurisdiction may petition the Commission for a determination that an obligation or expenditure of 911 fees or charges for a purpose or function other than the purposes or functions designated as acceptable in § 9.23 should be treated as an acceptable purpose or function. Such a petition must meet the requirements applicable to a petition for declaratory ruling under § 1.2 of this chapter.

(b) The Commission shall grant the petition if the State or taxing jurisdiction provides sufficient documentation to demonstrate that the purpose or function:

(1) supports public safety answering point functions or operations, or

(2) has a direct impact on the ability of a public safety answering point to:

(i) receive or respond to 911 calls, or
(ii) dispatch emergency responders.

§ 9.25 Participation in annual fee report data collection.

If a State or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a–1(f)(2)).

§ 9.26 Advisory committee participation.

Notwithstanding any other provision of law, any State or taxing jurisdiction identified by the Commission in the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a–1(f)(2)) as engaging in diversion of 911 fees or charges shall be ineligible to participate or send a representative to serve on any committee, panel, or council established under section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1425(a)) or any advisory committee established by the Commission.

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking* (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the Federal Register.[3]

A. Need for, and Objectives of, the Proposed Rules

2. The *NPRM* proposes and seeks comment on ways to implement section 902 of the Consolidated Appropriations Act of 2021.[4] On December 27, 2020, the President signed the Don't Break Up The T-Band Act of 2020, which is Division FF, Title IX, Section 902 of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260). Section 902 directs the Commission to issue final rules 180 days after enactment on December 27, 2020 designating acceptable purposes and functions for the obligation or expenditure of 911 fees by states and taxing jurisdictions. Section 902 also provides that the use of 911 fees for any purpose or function other than those designated by the Commission constitutes 911 fee diversion.

3. To implement section 902 of the Act, the *NPRM* seeks comment on the Commission's proposals to amend part 9 of the rules to establish a new subpart I regarding "911 Fees." Section 902 defines several terms which the *NPRM* proposes to codify these definitions in the new subpart I of the rules. In addition, section 902 directs the Commission to issue final rules designating purposes and functions for which the obligation or expenditure of 911 fees is acceptable. It also provides that the purposes and functions identified by the Commission as acceptable "shall be limited to the support and implementation of 9-1-1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction." The *NPRM* seeks comments on proposals to develop an illustrative, non-exhaustive list of permissible and non-permissible uses for purposes of section 902.

4. Section 902 provides that a state or taxing jurisdiction may petition the FCC for a determination that an obligation or expenditure of a 911 fee for a purpose or function other than those deemed acceptable by the Commission should be treated as an acceptable expenditure. Per section 902, the petition must demonstrate that the expenditure: (1) supports public safety answering point (PSAP) functions or operations, or (2) has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. If the Commission finds that a state or taxing jurisdiction has provided sufficient documentation to make this demonstration, the statute provides that it shall grant the petition. In addition, the Commission seeks comment on amending the rules to require that if a state or

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[1] *See* 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[2] *See* 5 U.S.C. § 603(a).

[3] *Id.*

[4] Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, Division FF, Title IX, Section 902, Don't Break Up the T-Band Act of 2020 (section 902).

taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such state or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the annual report to Congress required by the NET 911 Act. The *NPRM* seeks comment on proposals to codify these provisions in subpart I of part 9 of the rules.

B. Legal Basis

5. This action was taken pursuant to Sections 1, 4(i), 4(j), 4(o), 201(b), 251(e), 301, 303(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 154(o), 201(b), 251(e), 301, 303(b), and 303(r), the Don't Break Up The T-Band Act of 2020, Section 902 of Title IX, Division FF of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Section 101 of the New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, 47 U.S.C. § 615a-1, and the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 47 U.S.C. §§ 615 note, 615, 615a, and 615b.

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

6. 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.[5] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[6] In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act.[7] A "small-business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[8]

7. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.[9] First, while there are industry-specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA's) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.[10] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.[11]

8. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[12] The

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[5] *See* 5 U.S.C. § 603(b)(3).

[6] *See id*. § 601(6).

[7] *See id*. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[8] *See* 15 U.S.C. § 632.

[9] *See* 5 U.S.C. § 601(3)-(6).

[10] *See* SBA, Office of Advocacy, "What's New With Small Business?", https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/23172859/Whats-New-With-Small-Business-2019.pdf (Sept 2019).

[11] *Id*.

[12] 5 U.S.C. § 601(4).

Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.[13] Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.[14]

9. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[15] U.S. Census Bureau data from the 2017 Census of Governments[16] indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[17] Of this number there were 36,931 general purpose governments (county[18], municipal and town or township[19]) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts[20] with enrollment populations of less than 50,000.[21] Accordingly, based on the 2017 U.S. Census of Governments data, we

[13] The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. *See* Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard), "Who must file," https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

[14] *See* Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for Region 1-Northeast Area (76,886), Region 2-Mid-Atlantic and Great Lakes Areas (221,121), and Region 3-Gulf Coast and Pacific Coast Areas (273,702) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

[15] 5 U.S.C. § 601(5).

[16] *See* 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with "2" and "7". *See also* Census of Governments, https://www.census.gov/programs-surveys/cog/about.html.

[17] *See* U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02]. https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). *See also* Table 2. CG1700ORG02 Table Notes_Local Governments by Type and State_2017.

[18] *See id.* at Table 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05]. https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

[19] *See id. at* Table 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06]. https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

[20] *See id.* at Table 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10]. https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html. There were 12,040 independent school districts with enrollment populations less than 50,000. *See also* Table 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2017.

[21] While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments

(continued….)

estimate that at least 48,971 entities fall into the category of "small governmental jurisdictions."[22]

10. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.[23] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[24] For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year.[25] Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1000 employees or more.[26] Thus, under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

11. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as "establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry."[27] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[28] U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.[29] Of this total, 3,083 operated with fewer than 1,000 employees.[30] Thus, under

(Continued from previous page)
category. Therefore, only data from independent school districts is included in the special purpose governments category.

[22] This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations Tables 5, 6, and 10.

[23] *See* U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite)"*, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517312&search=2017+NAICS+Search&search=2017.

[24] *See* 13 CFR § 121.201, NAICS Code 517312 (previously 517210).

[25] *See* U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series: Estab and Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517210, https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517210&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false&vintage=2012.

[26] *Id*. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[27] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers"*, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.

[28] *See* 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

[29] *See* U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false.

this size standard, the majority of firms in this industry can be considered small.

12. *All Other Telecommunications.* The "All Other Telecommunications" category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.[31] This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.[32] Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[33] The SBA has developed a small business size standard for "All Other Telecommunications," which consists of all such firms with annual receipts of $35 million or less.[34] For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year.[35] Of those firms, a total of 1,400 had annual receipts less than $25 million, and 15 firms had annual receipts of $25 million to $49, 999,999.[36] Thus, the Commission estimates that the majority of "All Other Telecommunications" firms potentially affected by our action can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

13. As indicated in Section A above, the *NPRM* seeks comment on proposed rules to implement section 902. The *NPRM* generally does not propose specific reporting or recordkeeping requirements. The *NPRM* does, however, propose and seek comment on codifying the requirement that states or taxing jurisdictions seeking a Commission determination on 911 fee diversion satisfy certain criteria established in section 902. In such cases, a state or taxing jurisdiction would have to show that a proposed expenditure: (1) supports PSAP functions or operations, or (2) has a direct impact on the ability of a PSAP to receive or respond to 911 calls or to dispatch emergency responders. If the Commission finds that a state or taxing jurisdiction has provided sufficient documentation to make this demonstration, the statute provides that it shall grant the petition. The information and documentation that a state or taxing jurisdiction will have to provide the Commission to make the requisite showing will impact the reporting and recordkeeping requirements for small entities and others subject to the requirements. The Commission proposes to apply the existing declaratory ruling procedures and obligations under section 1.2 of the Commission's rules, which small entities may already be familiar with, to petitions for determination.

14. In addition, the *NPRM* seeks comment on amending the rules to require that if a state or taxing jurisdiction receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) after December 27, 2020, such state or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the

(Continued from previous page)

[30] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[31] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications*", https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517919&search=2017+NAICS+Search&search=2017.

[32] *Id.*

[33] *Id*.

[34] *See* 13 CFR § 121.201, NAICS Code 517919.

[35] *See* U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 517919, https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=517919&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false.

[36] *Id.*

Commission to prepare the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a–1(f)(2)). This proposed requirement is consistent with the requirements of Section 902. Under OMB Control No. 3060-1122, the Office of Management and Budget previously approved and renewed the information collection requirements associated with filing annual 911 fee reports as mandated by the NET 911 Act.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The RFA requires an agency to describe any significant specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[37]

16. In the *NPRM*, the Commission seeks to implement the provisions of section 902 that require Commission action by proposing changes to part 9 of our rules that would achieve the stated objectives of Congress's mandated rules in a cost-effective manner that is not unduly burdensome to providers of emergency telecommunication services or to states and taxing jurisdictions. Using this approach, we inherently take steps to minimize any significant economic impact or burden for small entities. Specifically, we propose to adopt and codify the definitions in section 902 for certain terms relating to 911 fees and fee diversion in part 9 of our rules. For a few terms, we make limited modifications to the definition to avoid gaps and promote the apparent intent of the new statute.[38] In addition to promoting consistency, we believe our proposals will help small entities and others who will be subject to section 902 and our rules avoid additional expenses for compliance which may have resulted if the Commission in the alternative proposed and adopted different definitions for certain terms in section 902 relating to 911 fees and fee diversion.

17. Similarly, to fulfill the Commission obligations associated with issuing rules designating acceptable purposes and functions, for consistency we propose to use language from section 902 codifying the statutory standard for which the obligation or expenditure of 911 fees or charges by any state or taxing jurisdiction is considered acceptable. We also propose to specify in the rules examples of both acceptable and unacceptable purposes and functions for the obligation or expenditure of 911 fees or charges. If adopted, identifying and including these examples in the Commission's rules should enable small entities to avoid unacceptable expenditures in violation of our rules, which could impact eligibility for federal grants and participation in federal advisory committees.

18. Finally, the Commission expects to more fully consider the economic impact on small entities, as identified in comments filed in response to the *NPRM* and this IRFA, in reaching its final conclusions and taking action in this proceeding.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

19. None.

[37] 5 U.S.C. § 603(c)(1) - (4).

[38] The definitions for the terms "911 fee or charge" and "Diversion" include modifications.

Situation Report 69

COVID-19

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Date/Time: 3-3-2021/5:00 pm
Report Version: ☐ Initial ☒ Update ☐ Final
MI CIMS Incident Name: 2020-01-28 Coronavirus Outbreak

Incident Facilities
EOC Activation Status: Level 3 – Monitoring and Assessment/Virtual
EOC Operational Hours: 24 hours virtually by Emergency Management
Vaccination Clinic – Opened at Lansing Mall. Days and Hours Vary. **BY APPOINTMENT ONLY.**
JIC Operational Hours: 8 am – 5 pm virtually
PPE Distribution Node: Demobilized
Non-congregate Shelter: Red Roof Inn located at 7412 W. Saginaw Highway, Lansing, Michigan

Affected Jurisdictions: Statewide

Declarations

Local: N/A

State: Major Disaster Declaration, DR-4994-MI, approved by the President on March 27th

Federal:

1. 90 day extension of Public Health Emergency issued by HHS Secretary beginning January 7, 2021
2. The President declared a national emergency invoking the Stafford Act on March 13, 2020
3. Major disaster declaration, 4494-DR-MI, approved for state/all counties on March 27, 2020

International: World Health Organization declares a pandemic on March 11, 2020

Objectives:

1. Continue to establish a common operating picture amongst all stakeholders.
2. Logistics preparations for resurgence of COVID-19 and vaccination distribution planning.
3. Liaison and share information as requested by BEDHD with stakeholders for vaccination site planning

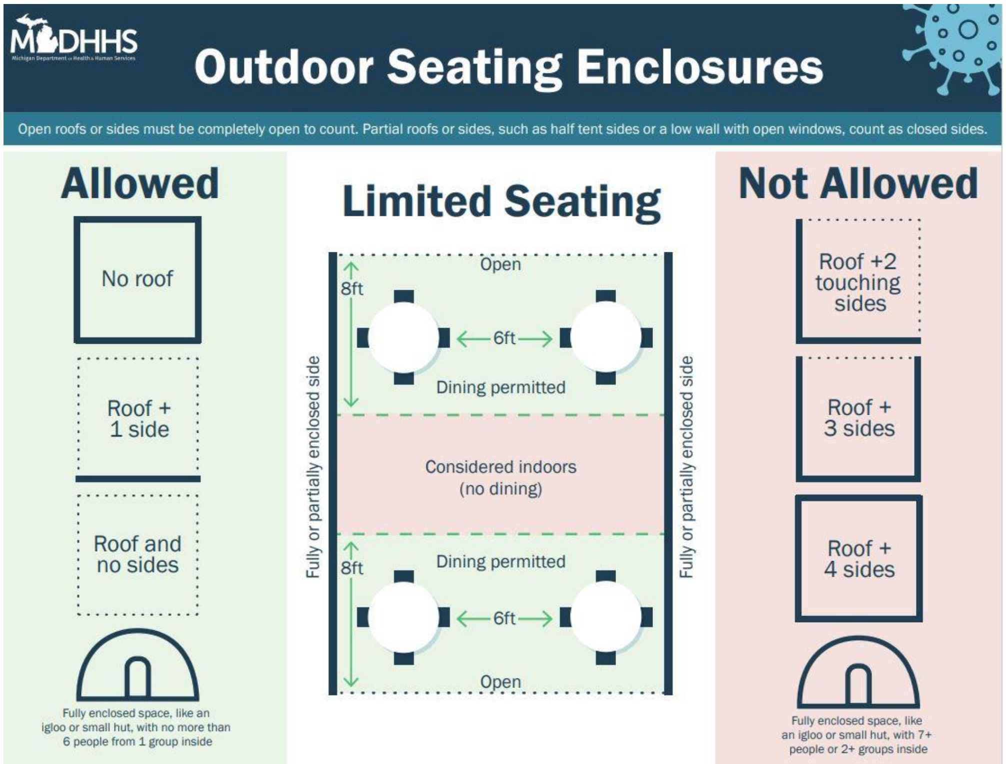
UPDATED KEY INFORMATION

Vaccine Update from BEDHD

- Webpage - [COVID-19 Vaccine Information]
- Lansing Mall Vaccination Clinic is open and is vaccinating by **APPOINTMENT ONLY**.
- Hours and days of operation vary throughout the month of February.
- Vaccination Clinic is at the former Old Navy (east entrance of mall) next to Dunham's and across from Shoe Carnival.
- Staffing includes personnel from BEDHD, the National Guard, and volunteers with medical and non-medical backgrounds.
- [Statewide COVID-19 Vaccine Tracking Board]

Michigan Department of Health and Human Services (MDHHS) Update

- See attached MDHHS Orders Update



COVID-19
Residential Care Visitation Order

This order provides a safe plan for visitation, and continues necessary protections for residents and staff in facilities across the state.

Outdoor visits do not require testing. Allowed if no recent cases in facility.

Indoor visits do require testing. Allowed if no recent cases in the facility.

Compassionate care does require testing. End of life visits are exempt from testing.

Different rules apply to special categories of visitors, such as medical providers and those providing assistance with activities of daily living. See the Residential Care Special Cases Guidance for more information.

Visitation Precautions:

- Limited number of visitors/ appointments only
- Health screenings
- Six feet of physical distancing
- Face coverings (and other PPE when required by the facility)
- Hand hygiene and other cleaning/ disinfecting protocols

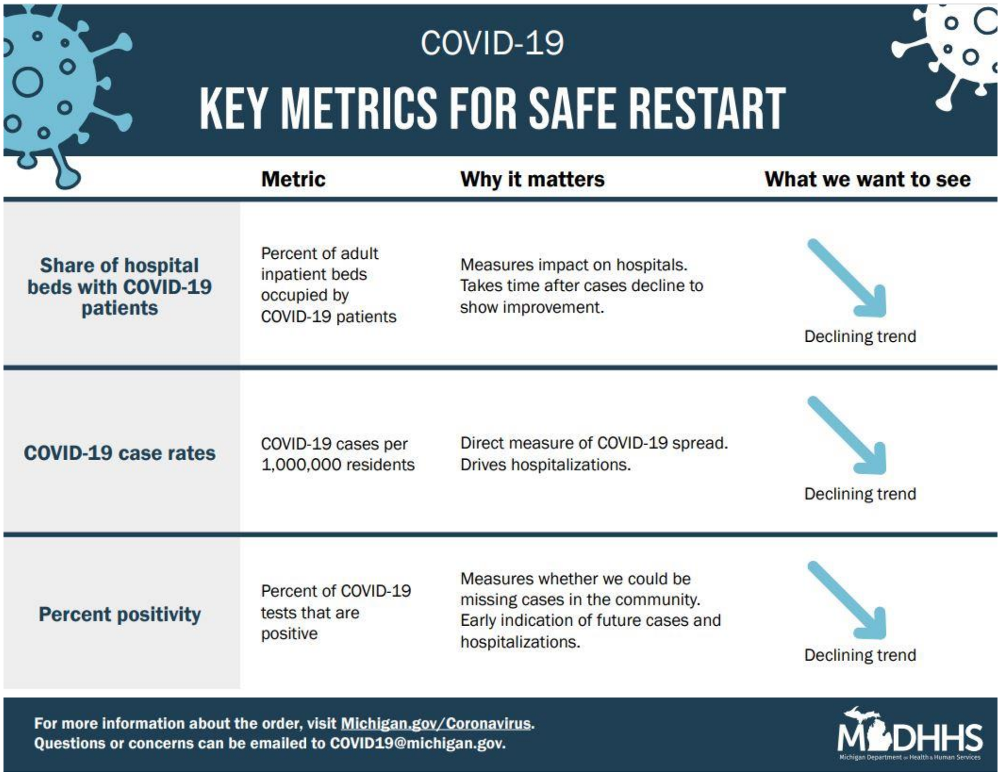
*Visitor testing is required in Nursing Homes, Homes for the Aged (HFAs), and Adult Foster Care homes (AFCs) licensed to serve 13 or more individuals. Visitor testing is encouraged, but not required in AFCs licensed to serve 12 or fewer individuals, unlicensed Assisted Living facilities, Hospice facilities, and Substance Use Disorder (SUD) Residential facilities.

Compassionate Care visits are those for residents in serious/critical condition, or in hospice care, including end of life visits.

For types of visits requiring testing, facilities should conduct point of care rapid antigen testing. When point of care testing is not available, facilities must require visitors to be tested on their own within 72 hours of coming to the facility and require proof of negative test results upon entry.

To read the complete MDHHS March 2, 2021, Visitation Order, visit Michigan.gov/Coronavirus.
Questions or concerns can be emailed to COVID19@michigan.gov.

MDHHS



INCIDENT SUMMARY

Emergence

COVID-19 was identified in Wuhan, China in December 2019. COVID-19 is caused by the virus severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), a new virus in humans causing respiratory illness which can be spread from person-to-person. Early in the outbreak, many patients were reported to have a link to a large seafood and live animal market, however, later cases with no link to the market confirmed person-to-person transmission of the disease. Additionally, travel-related exportation of cases has occurred.

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person.

Transmission

COVID-19 is primarily transmitted from person-to-person through respiratory droplets. These droplets are released when someone with COVID-19 sneezes, coughs, or talks. Infectious droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. A physical distance of at least 1 meter (3 ft) between persons is suggested by the World Health Organization (WHO) to avoid infection, although some WHO member states have recommended maintaining greater distances whenever possible[1]. Respiratory droplets can land on hands, objects or surfaces around the person when they cough or talk, and people can then become infected with COVID-19 from touching hands, objects or surfaces with droplets and then touching their eyes, nose, or mouth. Recent data suggest that there can be transmission of COVID-19 through droplets of those with mild symptoms or those who do not feel ill[2]. Current data do not support long range aerosol transmission of SARS-CoV-2, such as seen with measles or tuberculosis. Short-range inhalation of aerosols is a possibility for COVID-19, as with many respiratory pathogens. However, this cannot easily be distinguished from “droplet” transmission based on epidemiologic patterns. Short-range transmission is a possibility particularly in crowded medical wards and inadequately ventilated spaces[3]. Certain procedures in health facilities can generate fine aerosols and should be avoided whenever possible

Symptoms

A wide range of symptoms for COVID-19 have been reported[4]. These include:

- Fever or chills
- Cough
- Shortness of breath or difficulty breathing
- Fatigue
- Headache
- Nasal congestion or runny nose
- Muscle or body aches
- Sore throat
- New loss of smell or taste
- Nausea or vomiting
- Diarrhea

The estimated incubation period is between 2 and 14 days with a median of 5 days. It is important to note that some people become infected and do not develop any symptoms or feel unwell.

Illness Severity

Despite the important concerns about case fatality rates, most COVID-19 illnesses are – and we expect will continue to be – mild, and most patients will recover spontaneously with some supportive care, especially children and young adults. Data from several countries suggest that 14%-19% are hospitalized and 3%-5% will need intense care unit admission.

People at Higher Risk for Severe Illness

It is important to note that COVID-19 is a new disease, therefore there is limited information regarding risk factors for severe disease. In some cases, people who get COVID-19 can become seriously ill and develop difficulty breathing. These severe complications can lead to death. The risk of severe disease increases steadily as people age. Additionally, those of all ages with underlying medical conditions (including but not limited to heart disease, diabetes, or lung disease) appear to be at higher risk in developing severe COVID-19 compared to those without these conditions. As more data become available, additional risk factors for severe COVID-19 may be identified.

COVID-19: Everyday Preventive Actions

There are a number of ways to prevent the spread of COVID-19 infection. These include:

- Avoid touching your eyes, nose and mouth
- Avoid close contact with people who are sick
    - Remember that some people without symptoms can still spread the virus
- Stay at home when you are sick
- Cover your cough or sneeze with a tissue, then dispose of it properly
- Use a face covering when physical distancing is difficult or when going into closed spaces[8]
    - Physical distancing should be at least 1 meter (3 ft)
- Clean and disinfect frequently touched objects and surfaces
- Perform hand hygiene with soap and water or use alcohol-based hand rub
    - Hand Rub should contain at least 60% alcohol[9]
    - Hand washing should be done for at least 40-60 seconds based on WHO's recommendations

More information on COVID-19 guidance and the outbreak status can be found at:

https://www.michigan.gov/coronavirus or https://www.cdc.gov/coronavirus.

Date: 3-3-2021	Positive Cases	Probable Cases *	Recovered Cases **	Active Cases	Deaths	In Quarantine
Eaton County	5728	627	5458	104	151	250

*Probable cases include individuals who have symptoms consistent with COVID-19 and an epidemiologic link to a confirmed case or a positive serology (antibody) test, but do not have a positive diagnostic laboratory test for COVID-19, and individuals with a positive serology (antibody) test for COVID-19 and an epidemiologic link to a confirmed case. BEDHD is reporting probable cases identified after April 5, 2020 to be consistent with the State. Data will be reflective of midday on the date listed. Data should be considered preliminary, and is subject to change based on case investigation.

**BEDHD's definition of recovered cases = persons with COVID-19 who are alive, and who have been released from isolation because their symptoms have improved, are fever-free, and sufficient time has passed since symptoms began.

EMERGENCY SUPPORT FUNCTION (ESF) STATUS

Nothing to report from ESFs #1, #3, #4, #7, #12, #13, #16

ESF #1 – Transportation

- Regional transportation authorities (Eatran, CATA, Clinton Transit) are offering FREE transportation for residents with a scheduled COVID-19 vaccination appointment.

ESF #2 – Communications

- Central Dispatch administrative staff continues operating in a remote work environment. This includes the Director, Deputy Director, Administrative Assistant, Support Supervisor.

ESF #5 – Information and Planning

- Eaton County Emergency Management continues to support BEDHD with their operational architecture and with the vaccination site at the Lansing Mall.
- Situation Reports are being distributed once a week (Wednesday) along with BEDHDs weekly data report.

MSP/EMHSD GIS Dashboards

1. New Cases and Deaths by County
2. New Cases Animation and New Deaths Animation
3. Vaccinations

ESF #6 – Mass Care, Emergency Assistance, Temporary Housing, and Human Resources Non-congregate Sheltering

- No sheltering activity occurred in February
- Providing updates once a month to the Michigan State Police Emergency Management & Homeland Security Division on sheltering operations.

ESF #7 – Logistics and Resource Support

- The EOC is still able to fulfill resource requests IF you've exhausted other efforts through your regular supply chains/vendors and if we have the supplies available. Please follow the attached updated procedure for resource requests. The distribution node has not reopened and any resource pick-ups will take place in the parking lot of Central Dispatch.

ESF #8 – Public Health

- Vaccination Clinic schedule thru March established
- BEDHD Coronavirus Page
- The most recent BEDHD data report is attached to the email and can be found here
- Weekly communications and updates with schools are being conducted through Zoom meetings on Wednesdays at 10:00 am.

ESF #15 – External Affairs

- Updates for local COVID-19 cases are being distributed through subscriber community briefings and weekly data reports.

ADDITIONAL INFORMATION

Weather

NWS Forecast for: Charlotte MI
Issued by: National Weather Service Grand Rapids, MI
Last Update: 9:04 am EST Mar 3, 2021

Print

Today	Tonight	Thursday	Thursday Night	Friday	Friday Night	Saturday	Saturday Night	Sunday
Mostly Sunny	Partly Cloudy	Sunny	Mostly Clear	Sunny	Mostly Clear	Mostly Sunny	Mostly Clear	Sunny
High: 47 °F	Low: 22 °F	High: 36 °F	Low: 18 °F	High: 39 °F	Low: 20 °F	High: 40 °F	Low: 22 °F	High: 46 °F

Today: Mostly sunny, with a high near 47. West southwest wind around 10 mph becoming north northwest in the afternoon.

Tonight: Partly cloudy, with a low around 22. North northwest wind 7 to 10 mph.

Thursday: Sunny, with a high near 36. North wind around 10 mph.

Thursday Night: Mostly clear, with a low around 18. North wind 6 to 9 mph.

Friday: Sunny, with a high near 39. North northwest wind 7 to 11 mph.

Friday Night: Mostly clear, with a low around 20.

Saturday: Mostly sunny, with a high near 40.

Saturday Night: Mostly clear, with a low around 22.

Sunday: Sunny, with a high near 46.

Sunday Night: Partly cloudy, with a low around 30.

Monday: Mostly sunny, with a high near 54.

Monday Night: Mostly cloudy, with a low around 36.

Tuesday: Mostly sunny, with a high near 59.

Memorandum of Understanding (MOU)

This Memorandum of Understanding (MOU) sets for the terms and understanding between Eaton County and the City of Charlotte in case the use of a “continuity facility” is needed after the activation of the Eaton County Continuity of Operations (COOP) plan.

Background

The mission of the Eaton County Government is to provide quality public services in a timely and competent manner, and to work with the cooperation of the community and other local government units to create a vibrant and healthy physical, social and economic environment. To support this mission, our organization must be prepared to continue operations during any type of threat or emergency, and be able to effectively resume essential operations if they are interrupted. Included in this responsibility is the requirement to determine continuity facilities with sufficient space, equipment, infrastructure systems and logistical support to maintain operations for 30 days.

Situation Triggers for Continuity Facility Need

In the event that the Eaton County Courthouse, 1045 Independence Blvd., Charlotte, Michigan is inaccessible, Eaton County Governmental Offices may request the need to for an alternate in-person operating capability at a “continuity facility.” Potential triggers include, but are not limited to:

- Major damage or destruction to the structural integrity of the courthouse due to natural hazards
- Major damage or destruction to the structural integrity of the courthouse due to technological hazards
- Major damage or destruction to the structural integrity of the courthouse due to man-made hazards and subsequent law enforcement investigation

After a situational assessment and/or damage assessment has been completed that determines the courthouse will be inaccessible and identified essential functions need to continue in-person, Eaton County will coordinate with the City Manager’s Office to activate the terms of this MOU. The terms outlined in this MOU shall not interfere with the regular business of the City.

Logistics

If the continuity facility will be utilized consideration should be given to any logistics that would be needed to support the execution of the essential functions. This would include:

- Space – Eaton County will coordinate with the City Manager’s Office to determine official space availability at the time of the incident. The following space in the continuity facility may be available for use by Eaton County:
    - City Council Chambers (possible uses include Board of Commissioners Meetings, committee meetings, etc.)

- Community Room (possible uses include Board of Commissioners Meetings, committee meetings, office space, etc.)
- Cubicle space in the City Clerk's Office (office space)

- Needed equipment owned by the county to continue essential functions as designated by departmental COOP plans that can be transported by county personnel to the continuity facility.
- Information technology (IT), audiovisual (AV) and telecommunications (telecoms) support at the alternate site.
- Site provisions such as parking, security, etc.

Many of the above items already exist within the continuity facility infrastructure. Additional needed equipment, IT/AV, telecommunications and site provisions may be supplemented with county resources.

Contact Information

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Reimbursement

If a “state of emergency” or “state of disaster” is declared by the Governor of the State of Michigan in accordance PA 390, the Governor may authorize an expenditure from the disaster and emergency contingency fund when federal assistance is not available. These funds may be used as a means of reimbursement to the continuity facility.

If a federal declaration is declared temporary relocation for essential community services may be eligible for FEMA Public Assistance reimbursement for up to six months from the declaration date. More details can be found in the *Public Assistance Program and Policy Guide* (pg. 130-134).

Periodic Review

The evaluation of progress in implementing this MOU will be done on an annual basis as a part of the continued building and maintenance efforts of the COOP plan. Both parties should notify the other if primary points of contact change.

Term and Termination

This MOU is effective XXXXX and is effective for five years, expiring on XXXXX. Six months prior to expiration the parties will meet to review the progress and success of the cooperative effort. In connection with such review, the parties may decide to extend this MOU for an additional period not exceeding five years, and if so shall confirm this in a signed writing. This MOU may be terminated by written notification from either party to the other at any time and for any or no reason.

Signature Page

SIGNATURE OF THE MAYOR OF CHARLOTTE	DATE

SIGNATURE OF THE CITY CLERK OF CHARLOTTE	DATE

SIGNATURE OF THE EATON COUNTY BOARD OF COMMISSIONERS BOARD CHAIR	DATE