

NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 9-1-1 Emergency Service Fees

Regulatory/Legislative Information Document (RLID)



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1 **1 Executive Overview**

2 This document is provided as a model baseline guideline for those responsible for drafting statutes or rules
3 associated with prepaid wireless service and 9-1-1 emergency service fees. While not full model legislation,
4 the model guidelines are intended to assist in the drafting of new or modified rules, regulations or statutes
5 concerning the application of 9-1-1 fees/surcharges for prepaid wireless service.

6 **2 Introduction**

7 **2.1 Purpose and Scope of Document**

8 This document is intended to assist the drafting of new or modified rules, regulations or statutes concerning
9 the application of 9-1-1 fees/surcharges for prepaid wireless service. The language provides more than one
10 method for implementing a 9-1-1 fee/surcharge for prepaid wireless service. This approach was taken due
11 to the reality that not all stakeholders in the states (prepaid wireless service providers, retail providers, 9-1-
12 1 governing authorities, Public Safety Answering Points (PSAPs) and others) will necessarily agree on a
13 single method to impose and collect a 9-1-1 fee for prepaid wireless service. The options described in the
14 document have largely been taken from versions of existing state statutes with some modifications.

15 **2.2 Reason to Implement**

16 This document has been issued because prepaid wireless service is a growing segment within the overall
17 consumer wireless industry. Increasingly, consumers are opting for a form of prepaid wireless service
18 whereby a specified number of minutes are purchased at retail outlets or online rather than the traditional
19 monthly billed wireless service. This form of wireless service offers challenges in implementing a 9-1-1 fee
20 and does not always fit nicely within statutes/regulations that may not have fully contemplated these types of
21 services. This is particularly true for those wireless providers whose only service offerings are in the form of
22 a prepaid service. Nonetheless, ensuring that the 9-1-1 system is funded in a fair and equitable manner is a
23 priority for the sustainability of the 9-1-1 system.

24 **2.3 Reason for Reissue**

25 NENA reserves the right to modify this document. Upon revision, the reason(s) will be provided in this
26 section.

27 **2.4 Cost Factors**

28 There will be some costs associated with the administration, collection and remittance of 9-1-1 fees
29 associated with prepaid wireless service. Cost factors are also currently present for the collection of 9-1-1
30 fees for post-paid wireless and wireline service providers. Costs for any stakeholders involved in the
31 administration, collection and remittance of prepaid wireless 9-1-1 fees should be addressed in rules,
32 regulations or statutes that are developed for prepaid wireless service. (Currently, a one or two percent
33 administrative fee has been used in practice to defray collection and remittance costs)

34

35 **3 Model Baseline Guidelines for Drafting Statutes or Rules Associated with**
36 **Prepaid Wireless Service and 9-1-1 Emergency Service Fees**

37 **3.1 Purpose and Rationale**
38

39 Because the issue of prepaid wireless service and wireless 9-1-1 fees/surcharges (hereinafter “wireless 9-1-
40 1 fees”) is being considered or studied by legislative, administrative, regulatory, tax and/or policy making
41 bodies, specific basic model guidelines for drafting may assist these bodies and other interested parties on
42 these issues and may promote greater fairness, parity, and stabilization of wireless 9-1-1 fees and 9-1-1
43 funding associated with growing consumer use of prepaid wireless service.

44 **3.2 Basic Definitions**
45

46 "Prepaid wireless service" means wireless service that is activated in advance by payment
47 for a finite dollar amount of service or for a finite set of minutes that terminates either upon use by a
48 customer and delivery by the wireless provider of an agreed-upon amount of service corresponding to the
49 total dollar amount paid in advance or within a certain period of time following the initial purchase or
50 activation, unless the customer makes additional payments. The term does not include a wireless service
51 plan that automatically charges the customer's or subscriber's credit card, debit card, or registered financial
52 account for a specific amount on a recurring date or arrangement.
53

54 "Prepaid wireless telephone service provider" means a cellular or wireless telecommunications service
55 provider that sells prepaid wireless telephone service at wholesale or retail.
56

57 "Retail" means sales by a prepaid wireless telephone service provider directly to the end user customer or
58 to a non-prepaid wireless telephone service provider through a voluntary contractual relationship in which
59 the service is sold directly to the end user customer on behalf of the prepaid wireless telephone service
60 provider.
61

62 "Wholesale" means sales by the prepaid wireless telephone service provider to a non-prepaid wireless
63 telephone service provider who sells service on behalf of the prepaid wireless telephone service provider.
64

65 **3.3 Basic Alternatives**
66

67 For prepaid wireless service, the prepaid wireless telephone service provider shall:

68 (1) collect the wireless 9-1-1 fee on a monthly basis from each customer whose account balance is
69 equal to or greater than the amount of the wireless 9-1-1 fee on the last day of the month for remittance to
70 the government entity; or
71

72 (2) collect the wireless 9-1-1 fee, or make voluntary contractual arrangements with a retail seller of
73 prepaid wireless telephone service to collect the wireless 9-1-1 fee and transfer those funds to the wireless

74 telephone service provider for remittance to the governmental entity, from the customer at the point-of-sale
75 for each 30-day increment of prepaid wireless telephone service that is purchased at the time of sale. [note:
76 states may wish to provide more detail in defining “30 day increment” or consider alternative increments.
77 Such detail could be provided in the statute or be adopted via a rulemaking if applicable], or
78

79 (3) collect the wireless 9-1-1 fee indirectly from customers by calculating the total wireless 9-1-1
80 fee owed by its customers and remitting that amount to the government entity. A prepaid wireless telephone
81 service provider that elects the collection method specified in this subparagraph must calculate the total
82 wireless 9-1-1 fee owed for the month by:
83

84 (A) dividing its total intrastate prepaid wireless revenue for the month by the national
85 Average Revenue Per User for prepaid wireless service, as defined by the relevant statutory agency
86 [note: several state statutes incorporate \$50.00 as the national Average Revenue Per User amount;
87 statutes may want to have the ARPU determined by FCC reports, if available]; and
88

89 (B) multiplying the result obtained under subparagraph (1) by the amount of the wireless 9-
90 1-1 fee.

91 **3.4 Monitoring and Enforcement**

92
93 (1) In general, regardless of the method of collection chosen, the wireless service provider shall be subject
94 to audit by the governmental entity and shall be subject to penalties and interest for violations or improper
95 remittances to the governmental entity for each violation or improper remittance.
96

97 (2) The wireless service provider that enters into voluntary contractual arrangements with a retail seller of
98 prepaid wireless telephone service to collect the wireless 9-1-1 fee and transfer those funds to the wireless
99 telephone service provider for remittance to the governmental entity shall provide to the governmental entity
100 a monthly list of each of such retail seller and the amount of funds transferred and remitted to the 9-1-1
101 governmental entity. Both the wireless service provider and the retail seller shall be subject to audit by the
102 governmental entity and shall be subject to penalties and interest for violations or improper remittances to
103 the governmental entity for each violation or improper remittance.
104

105 (3) The wireless service provider that provides both prepaid and postpaid wireless services shall separately
106 identify the amount of prepaid and postpaid wireless services in its remittance reports to the governmental
107 entity.
108

109 **4 Point of Sale Approach**

110 This document articulates three methods for providers of prepaid wireless telephone service to choose from
111 to collect 9-1-1 fees on behalf of their customers, including a voluntary contractual arrangement with retail
112 outlets that sell prepaid service. Some, including the Cellular Telecommunications and Internet Association
113 (CTIA), advocate a model that mandates collection by retail outlets as the only method for 9-1-1 fee

114 collection, referred to as the “Point of Sale (POS) Model”. At this time, NENA does not support the POS
115 model as the only approach to collecting 9-1-1 fees for prepaid wireless sales. However, NENA and
116 others in public safety remain open to further discussions with representatives of the wireless and retail
117 industries to pursue the potential viability of this option.