

August 2006

November 2005

SUPPORTING STATEMENT

~~This revision of OMB 3060-1004 information collection does not impact the existing reporting obligations already covered under this collection for Tier I and Tier II carriers, at this time.~~

A. Justification:

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1. **Background.** The Commission's E911 Phase II rules require wireless licensees to provide Public Safety Answering Points (PSAPs) with Automatic Location Identification (ALI) information for 911 calls. Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution), or Global Positioning System (GPS) or other location technology in subscribers' handsets (a handset-based solution). The Commission's rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service. However, before a wireless licensee's obligation to provide E911 service is triggered, a PSAP must make a valid request for E911 service, *i.e.*, the PSAP must be capable of receiving and utilizing the data elements associated with the service and must have a mechanism in place for recovering its costs.

In addition to deploying the network facilities necessary to deliver location information, wireless licensees that elect to employ a handset-based solution must meet the handset deployment benchmarks set forth in Section 20.18(g)(1) of the Commission's Rules, independent of any PSAP request for Phase II service. After ensuring that 100 percent of all new digital handsets activated are location-capable, licensees must achieve ninety-five percent penetration among their subscribers of location-capable handsets no later than December 31, 2005.

The Commission has recognized that "special circumstances" may warrant a waiver of the E911 Phase II requirements. The Commission also has noted that smaller carriers may face "extraordinary circumstances" in meeting one or more of the deadlines for Phase II deployment. Pursuant to Section 1.925(b)(3) of the Commission's Rules, the Commission may grant a request for waiver if the underlying purpose of the rule(s) would not be served or would be frustrated by

application to the instant case, and that grant would be in the public interest, or, in view of unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.

Finally, distinct from the Commission's rules and established precedent regarding waivers of the E911 requirements, in December 2004 Congress enacted the Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004 (ENHANCE 911 Act).¹ The ENHANCE 911 Act, *inter alia*, directs the Commission to act on any petition filed by a qualified Tier III carrier requesting a waiver of Section 20.18(g)(1)(v) within 100 days of receipt, and grant such request for waiver if "strict enforcement of the requirements of that section would result in consumers having decreased access to emergency services."

The Commission originally established reporting requirements in an Order released in October 2001 which received OMB approval. Nationwide wireless carriers ("Tier I") generally must file quarterly reports with the Commission on February 1, May 1, August 1, and November 1 of each year, with the exception of T-Mobile, which is required to file semi-annual reports (as of October 2002). Mid-sized wireless carriers ("Tier II") also were required to file quarterly reports under this same time schedule.

The previously approved information collection under OMB Control No. 3060-1004 was revised to include the information requirements that the quarterly reports, beginning with ~~August~~ ~~August #1~~, 2003 filing, be submitted with an Excel spreadsheet as an appendix to Tier I and Tier II carrier narrative reports. The existing information collection only required Tier III carriers to file a one-time interim report. Tier III wireless carriers were also not required to submit an Excel spreadsheet with their one-time filings.

~~We are revising this collection because on October 21, 2005, the Commission released an order (FCC 05-181) finding that certain Tier III carriers did not sufficiently support their requests for waiver of the E911 rules, but providing the carriers with additional time, until July 21, 2006 to augment the record to show a clear path to full compliance with the E911 requirements. The Commission also imposed conditions and required the Tier III carriers to file separate status reports by November 21, 2005, and, commencing February 1, 2006, additional status reports on a quarterly basis, for a two year period. With this emergency request, we are revising this collection because on October 21, 2005, the Commission released an order (FCC 05-181) finding that certain Tier III carriers did not sufficiently support their requests for waiver of the E911 rules, but providing the carriers with additional time, until July 21, 2006, to augment the record to show a clear path to full compliance with the E911 requirements. The Commission also imposed conditions and required the Tier III carriers to file separate status reports by November 21, 2005, and, commencing February 1, 2006, additional status reports on a quarterly basis, for a two year period.~~

~~————— In addition, on October 28, 2005 (FCC 05-182) and on November 3, 2005 (FCC 05-188), in response to requests for relief submitted by certain Tier III carriers, the Commission released orders that granted, in part, limited extensions of the December 31, 2005 requirement, subject to conditions, and required the Tier III carriers to file status reports on a quarterly basis, for a two year period beginning February 1, 2006. Further, FCC 05-188 required one Tier III carrier, in addition to the quarterly reporting requirements, to submit a compliance plan by November 3, 2006.~~

¹ National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004).

The Commission is requesting an extension ~~revision~~ of the previously approved information collection under OMB Control No. 3060-1004 to include information requirements that reflect the reporting requirements imposed on Tier ~~III~~ H-service providers as described above.

Statutory authority for this collection of information is contained in Sections 1, 4(i), 201, 303, 309 and 332 of the Communications Act of 1934, as amended.

As noted on the Form OMB 83-I, this collection of information does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The Commission will use the information submitted by Tier III carriers subject to reporting requirements to ensure that they comply with the Commission's E911 requirements and the terms of the underlying orders addressing their requests for waiver relief.

3. Tier III carriers will have the option of filing reports electronically with the Electronic Filing System (ECFS) and paper copies with the Commission's Office of the Secretary.

4. There is no similar or duplicative reporting requirement.

5. The information that the Commission requires of Tier ~~III~~ H-carriers in their status reports is the minimal amount of data that the Commission will need to monitor compliance. The reports generally must include the following information: (1) the number and status of Phase II requests from PSAPs (including those requests it may consider invalid); (2) the estimated dates on which Phase II service will be available to PSAPs; (3) the status of coordination efforts with PSAPs for alternative ninety-five percent handset penetration dates; (4) efforts to encourage customers to upgrade to location-capable handsets; (5) the extent of subscribers located in areas with analog service only; (6) the percentage of customers with location-capable phones; and (7) detailed information on status in achieving compliance. Other separate status reports and compliance plans generally require the submission of information related to the status of any agreements reached with PSAPs for alternative deployment schedules, and specific measures to be taken to achieve compliance with the Phase II rules.

6. The existing information collection is based on the Commission's regulatory authority pursuant to its regulatory responsibilities under the Omnibus Budget Reconciliation Act of 1993 ("OBRA-1993"), which added Section 309(j) to the Communications Act of 1934. If OMB follows the normal clearance process for information collection, it would effectively impede the Commission's ability to carry out its regulatory responsibilities to ensure that the Nation's wireless telephone users have timely access to emergency services using E911 technology. Tier III carriers have filed requests for relief only shortly before the December 31, 2005 deadline for compliance, informing the Commission that they would be unable to meet their E911 obligations. Given that delays in compliance could impact the delivery of safety-of-life services to the public, it is imperative that the Tier III carriers be brought into compliance, required in the various Orders, be timely submitted by the carriers. If these reporting requirements are not implemented, the Commission's ability to collect the information detailed above for the November 1, 2006 and February 1, 2007 reports will be impeded.

7. Tier III ~~H~~-service providers that have requested relief of Section 20.18(g)(1)(v) of the Commission's rules, but have not yet been addressed, generally will be required to file status reports every February 1, May 1, August 1, and November 1, until two years following release of the applicable Orders. Furthermore, the petitions for relief that are the subject of the instant revision were handled on a case-by-case basis. Therefore, future orders issued may vary slightly in the reporting requirements imposed, but generally will require submission of reports on a quarterly basis. In addition, similar to some of the Tier III service providers subject to the instant request, some Tier III carriers with pending petitions for relief may, in addition to quarterly reporting requirements, be required to submit separate reports or compliance plans following release of a particular order.

8. In addition, similar to some of the Tier III service providers subject to the instant request, some Tier III carriers with pending petitions for relief may, in addition to quarterly reporting requirements, be required to submit separate reports or compliance plans following release of a particular order. The Commission is requesting that OMB approve these information-collection requirements by November 18, 2005, pursuant to 5 C.F.R. § 1320.13(b). Due to the short turnaround time for the filing of the reports, we request a waiver of the notice requirements of 5 C.F.R. §§ 1320.8(d) and 1320.5(a)(1)(iv). We have initiated a 30 day notice to be published in the Federal Register (see attached). Finally The Commission initiated a 60-day public comment period which appeared in the Federal Register on December 14, 2005 (70 FR 74005). No comments were received as a result of the notice. A copy of the Federal Register notice is attached. T, the Commission requested that OMB approve the information collection requirements by August 31, 2006, pursuant to 5 C.F.R. § 1320.8(d) and 1320.5(a)(1)(iv). We initiated a 30 day notice that was in the Federal Register (see attached). The Commission also published a 60 days notice in the Federal Register (see attached). will publish a 60 day notice upon OMB approval of this emergency request.

9.—There are no payments or gifts to respondents.

10. There is no need for confidentiality. However, if applicants want to seek confidential treatment of their filing, they may do so pursuant to 47 C.F.R. § 0.459 of the Commission's rules.

11. This information collection does not address any private matters of a sensitive nature.

12. The total burden hour for this information collection is 369+202 total annual burden _____ hours. Below we summarize our estimate.

BURDEN HOURS:

Existing Burden Hours Estimates:

The Commission estimates that 2222 reports will be filed annually and a total of 110-110 annual burden hours for the quarterly reporting requirements covering the nationwide carriers (Tier I). ~~T-here (Tier I). There are 12 Mid-sized 12 Mid-sized~~ wireless carriers (Tier II) ~~(Tier II)~~ required to file quarterly reports.— The Commission estimates that each

report will take approximately 5 hours to draft and submit, and each carrier can be expected to assign a staff engineer to perform this function.

5 hours x 4 reports annually = 20 annual burden hours per carrier

20 hours x ~~1212~~ carriers = ~~240-240~~ total annual burden hours

For purposes of this PRA submission, the above-mentioned orders imposed on certain Tier III H-carriers quarterly reporting requirements for two years following release of each of the orders. Furthermore, FCC 05-181 imposed a separate, one-time reporting requirement for two Tier III carriers due 30 days following release, and FCC 05-188 imposed a separate, one-time requirement that one Tier III carrier submit a compliance plan. We estimate that a maximum of 50 Tier III carriers ultimately will be subject to a similar quarterly reporting requirement for two years as a result of future waiver orders yet to be drafted, and possibly other separate, one-time reporting requirements to be determined. for two years following release of each of the orders. Furthermore, FCC 05-181 imposed separate, one-time reporting requirements for two Tier III carriers due 30 days following release, and FCC 05-188 imposed a separate, one-time requirement that one Tier III carrier submit a compliance plan. We estimate that a maximum of 50 Tier III carriers ultimately will be subject to similar quarterly reporting requirements for two years as a result of future waiver orders yet to be drafted, and possibly other separate, one-time reporting requirements to be determined.

Revised Burden Hours Estimates:

~~4 hours per carrier per report~~

~~4 hours x 50 carriers = 200 (hours) x 4 quarterly reports = 800 hours~~

~~4 hours x 3 = 12 hours (current one time reporting hours)~~

-4 hours per carrier per report

4 hours x 50 = 200 x 4 quarterly reports = 800 hours

4 hours x 3 = 12 hours (current one-time reporting hours)

4 hours x 10 = 40 (future one-time reporting hours)

~~4 hours x 10 = 40 (future one time reporting hours)~~

852 = 852 Total total annual reporting hours

Summary of Burden Hours:

Tier I reporting requirement	110 hours
Tier II reporting requirement	240 hours
Tier III quarterly/one time reporting requirement	852 hours
Total annual burden hours	1202 hours

~~13.~~ Below we summarize our estimate for the total annual cost burden.

In-House Costs:

Existing Cost Estimates:

The Commission anticipates that 12 Tier II carriers will assign staff engineers (\$140 per hour) to draft and submit the quarterly reports and spreadsheets. As indicated above, the annual hourly burden per carrier for this burden is estimated to be about 20 hours.

$\$140 \times 20 \text{ hours} = \$2,800 \text{ per entity entity}$
 $\$2,800 \times 12 = \$33,600$

Revised Cost Estimates:

The Commission anticipates that ~~(50) Tier III carriers~~ 50 Tier III carriers will assign staff engineers/attorney (\$140 per hour) to draft and submit the monthly status reports, certification of compliance letter, and quarterly reports. As indicated above, the annual hourly burden per carrier for this burden is estimated to be about ~~852~~ 852 hours for the Tier III carriers. ~~all Tier III carriers.~~

$\$140 \times (4 \text{ reports} \times 4 \text{ hours} = 16 \text{ hours}) = \$ 2240 \text{ -per entity}$

$\$2240 \times (50) \text{ Tier III carriers} = \$ 112,000$
~~112,000~~

$\$140 \times 52 \text{ hours (3+10 Tier III one-time carrier reports)} = \7280

$(3 \text{ reports} \times 4 \text{ hours} = 12 \text{ hours}) + (10 \text{ reports} \times 4 \text{ hours} = 40 \text{ hours})$

$12 \text{ hours} + 40 \text{ hours} = 52 \text{ hours (3+10 Tier III one-time carrier reports)} = \$ 7280$

$(3 \text{ reports} \times 4 \text{ hours} = 12 \text{ hours}) + (10 \text{ reports} \times 4 \text{ hours} = 40 \text{ hours})$

$12 \text{ hours} + 40 \text{ hours} = 52 \text{ hours}$

SUMMARY OF COSTS TO RESPONDENTS:

~~\$15,400~~ \$15,400 Tier I Annual In-House Costs

~~\$33,600~~ \$33,600 Tier II Annual In-House Costs

\$112,000 Tier III Quarterly In-House Costs

\$7,280 Tier III One-Time In-House Costs

~~\$168,280~~ \$168,280 **Total Annual Cost to Respondents**

~~14.~~ Below we summarize our estimate for costs to the Federal Government.

The Commission will likely assign one GS-14 attorney or engineer at a rate of approximately \$47.99 per hour to review reports at a rate of 2 hours per report.

Revised Currently approved number of Tier I reports annually	_____	2222
Revised Currently approved number of Tier II reports annually	_____	4848
Tier III Quarterly Reports annually	-	200
Tier III One-Time reports		13
		283 283 reports filed

Currently approved annual hours for Commission review
~~283~~~~283~~ reports x 2 hours = ~~566~~~~566~~ annual burden hours

~~566~~~~566~~ burden hours x \$47.99 = \$ ~~27,162.34~~~~27,162.34~~ Total Annual Costs to the Commission

~~15. This is a revised collection. The burdens in this information collection represent a program change of -160(-) -160 burden hours. This reduction is due to significantly less respondents that the previous submission to OMB. Additionally, the Orders, imposed quarterly reporting requirements on Tier III carriers. Therefore, the burden increase of the reporting requirements is offset by the reduction in respondents. There is no change in burden. reduction is due to significantly less respondents than the previous submission to OMB fewer respondents. Additionally, the Orders imposed quarterly reporting requirements on Tier III carriers. Therefore, the burden increase of the reporting requirements is offset by the reduction of respondents.~~

~~15. Therefore, the burden estimates have been recalculated to report more accurate estimates. }~~

~~16.~~

~~16.~~ The data will not be published for statistical use.

~~17. The Commission is not We are not sseeking approval to avoid displaying the expiration date for OMB approval of the information collection.~~

~~18. The Commission is requesting that OMB approve these information collection requirements by August 31, 2006 November 18, 2005, pursuant to 5 C.F.R. § 1320.13(b). There are no exceptions. Due to the short turnaround time for the filing of the reports, we request a waiver of the notice requirements of 5 C.F.R. §§ 1320.8(d) and 1320.5(a)(1)(iv).~~

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.