

**SUPPORTING STATEMENT
U.S. DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
APPLICATION FOR DIGITAL-TO-ANALOG CONVERTER BOX
COUPONS FOR NURSING HOME RESIDENTS
OMB CONTROL NO. 0660-XXXX**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

Congress directed the National Telecommunications and Information Administration (NTIA) to create and implement a program to provide coupons for consumers to purchase digital-to-analog converter boxes. (See Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4, 21 (Feb. 8, 2006)). These converter boxes are necessary for consumers who wish to continue receiving broadcast programming over the air using analog-only television sets after February 17, 2009 - - the date that television stations are required by law to cease analog broadcasting. On March 15, 2007, NTIA published a Final Rule establishing the parameters of the Coupon Program and describing the rights and responsibilities of interested parties. See 72 Federal Register 12097 (March 15, 2007). Among other things, the regulations permit consumers to submit applications to NTIA for coupons beginning January 1, 2008. See 47 C.F.R. section 301.3(b).

Since NTIA began accepting applications for coupons, the Program has received a number of applications submitted by, or on behalf of, individuals residing in nursing homes. “Nursing homes” are not considered households as defined in the current regulations and therefore nursing home residents are not eligible to receive coupons. Because nursing home residents do not meet the current eligibility criteria under the current regulations, a waiver process is proposed through a Notice of Proposed Rulemaking (NPRM) that would permit nursing home residents to apply for coupons. This waiver process, however, would require the collection of information from a nursing home resident through an application to enable NTIA to identify the consumer, provide the requested coupon, and put into place mechanisms to prevent waste, fraud, and abuse.

On June 5, 2008, the Office of Management and Budget (OMB) issued a ‘Comment filed on proposed rule’ Notice of Action. This request is submitted to address the comments received as a result of the proposed rule, in Question 8 below.

2. Explain how, by whom, the frequency, and the purpose for which the information will be used. State whether NTIA's Information Quality Guidelines apply, if so, confirm that the collection complies with the Guidelines.

The information will be collected via an application process by nursing home residents or others acting on their behalf, and will be collected by mail only. The information solicited will be used solely for the purpose of providing the requested coupon to nursing home residents, coordinating distribution activities related to the coupon, and preventing waste, fraud and abuse in the administration of the program.

The information collected will not be disseminated to the public. NTIA's Information Quality Guidelines do not apply.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

NTIA will use web-based information collection technology as part of the application process. Applicants will be able to submit the application via the Internet, mail, or phone. It is estimated that 50% will submit electronically. Applications will be available at <https://www.dtv2009.gov>.

4. Describe efforts to identify duplication.

The information collection is unique to this program and is not available from any other source.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This information collection involves small businesses only to the extent that some nursing homes are considered small businesses. A Regulatory Flexibility Analysis was prepared to address the impact that this rule would have on small businesses. This collection of information does not cause a significant economic impact on small entities. This information collection involves small businesses only to the extent that some nursing homes are considered small businesses.

6. Describe the consequences the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If this information is not collected, nursing home residents will not be able to obtain coupons towards the purchase of converter boxes. As a result, those nursing home residents that obtain television broadcasts over-the-air will lose access to television after February 17, 2009.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The data collection is consistent with OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons

outside the agency or to obtain their views on the availability of data, frequency of collection, clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The final rulemaking will be published after receiving the Office of Management and Budget approval. The NPRM (RIN 0660-AA17) soliciting public comment was published in the Federal Register on April 24, 2007 (Vol. 73, pg. 22120).

In the NPRM, NTIA proposed to permit an individual residing in an eligible nursing home (nursing home resident) to apply for one (1) coupon on his or her own behalf. In such circumstances, NTIA proposed that the coupon applicant be required to include: (i) his or her name, date of birth, and Social Security Number (SSN); (ii) the name and address of the eligible nursing home; and (iii) a certification from the nursing home resident as to whether he or she receives television exclusively over the air or through cable, satellite or other pay television service.

In the NPRM, NTIA noted that in accordance with the Privacy Act of 1974, disclosure of an individual's SSN for purposes of this waiver process would be voluntary; however additional information to verify the resident's identity will be solicited if the individual chooses not to disclose the SSN.¹ NTIA noted, however, that such additional process may delay the resident's receipt of a coupon.

COMMENTS: A majority of commenters opposed the collection of a nursing home resident's SSN and date of birth. These commenters argued that the collection of this information violates a nursing home resident's privacy and could lead to identity theft or fraud. Other commenters argued that this requirement should not be imposed on nursing home residents if it is not imposed on other coupon program applicants. AHCA/NCAL argued that because the potential for fraud in this program is very low, NTIA should take the applicant's word on the application form, just as the agency takes the information of persons living in individual homes at face value. One commenter agreed that NTIA should be allowed to collect SSNs and birthdates of nursing home residents, as well as the people applying on their behalf, but proper precautions should be in place to protect against identity theft.

RESPONSE: However, careful consideration of all of the arguments raised in the comments, NTIA has decided *not* to require facility residents to provide SSNs as part of the application process. NTIA's concern, when it initially proposed to require SSNs, was to reduce opportunities for fraud, waste and abuse in the program. NTIA believes that there are legitimate concerns regarding privacy and identity theft, which outweigh the potential for fraud in the program, and thus has determined that it is not necessary to collect this information. Likewise, NTIA will not require facility residents to provide their date of birth as part of the application process.

¹ The Privacy Act of 1974 provides that it "shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security number." 5 U.S.C. § 552a.

NTIA proposed to permit a person designated to act on behalf of a nursing home resident (the designee) to request one (1) coupon for that resident. In that case, NTIA proposed that the designee be required to provide all of the information required of the nursing home resident.

In addition, NTIA propose that the designee supply: (i) his own name, address, SSN, and date of birth; and (ii) evidence that he is empowered to act on behalf of the resident (*e.g.*, power of attorney or birth certificate indicating familial relationship).

COMMENTS: Commenters opposed the proposed requirement that third parties acting on a nursing home resident's behalf should provide SSNs and date of birth. For example, the Advocacy Group for Elders Council at the Senior Source argued that legally authorized representatives should not have to provide more information than their name and address to request coupons on behalf of a nursing home resident. Some commenters argued that such a requirement was not only onerous, but may well convince a third party to withdraw the offer of assistance. Other commenters complained that proof of power of attorney or proof of a familial relationship is also too burdensome. Still others recommended that a box on the application indicating the relationship of the filer to the applicant would be sufficient.

RESPONSE: NTIA recognizes that residents of these facilities will need assistance from family and friends and, therefore, it will not implement a procedure that may deter that assistance. Requiring family members and friends to provide personal information may have the unintended consequence of deterring them from assisting residents in filling out an application and procuring a converter box. NTIA will permit family members and friends of the residents of the eligible facilities to apply on behalf of those residents, but it will not collect any personal information about the family member or friend. The family member or friend will only have to provide information as it relates to the resident. In other words, the family member or friend would provide the same information on an applicant that the resident would provide. All other requirements published in the proposed rule are adopted without change.

NTIA also proposed in the NPRM that an administrator of an eligible nursing home may request one (1) coupon on behalf of a nursing home resident of the facility. As with the designee, the administrator would be required to provide for each resident for whom the request is being made all of the information specified in Option 1 above. In addition, NTIA proposed that the administrator be required to provide: (i) the name and address of the residents' eligible nursing home; (ii) the administrator's own name, SSN, and date of birth; and (iii) a copy of each facility's operating license indicating the administrator's authorization to administer the eligible nursing home.

COMMENTS: Many commenters disagreed with the proposed requirements on administrators of nursing homes that would submit applications on behalf of nursing home residents. With respect to a copy of a facility's operating license, commenters argue that such a requirement would be onerous, and takes time away from providing care to nursing home residents. Other commenters opposed NTIA's proposal to request

the administrator's SSN. The Office of the D.C. Long-Term Care Ombudsman Program, Legal Counsel to the Elderly, however, argued that requiring an administrator to produce an operating license would be sufficient, but requiring the submission of a SSN in addition to the license would be overly burdensome.

Some commenters suggested that NTIA permit administrators or local coalition of senior care provider agencies to submit batch applications to NTIA for coupons on behalf of seniors that the coalition represents and that the coupons should be returned to the administrator or coalition rather than the individual seniors. Another commenter suggested that if a facility administrator is given the right to request coupons on behalf of residents, others should be able to submit applications as well including social workers, long-term ombudsmen, and other medical staff who work at the facility.

RESPONSE: Based on the comments submitted, NTIA decided that it will permit administrators of long-term care facilities to apply on behalf of its residents, but it will not collect any personal information about the administrator. NTIA agrees with the commenters that there are legitimate concerns regarding privacy, identity theft and application burdens, which outweigh the potential for fraud in the program. The administrator will only have to provide information as it relates to the long-term care resident. In other words, the administrator would provide the same information on an application that the resident would provide. Moreover, NTIA will not require the administrator to provide a copy of the facility's operating license indicating the administrator's authorization to administer the facility as part of the application process. All other requirements published in the proposed rule are adopted without change.

9. Explain the decision to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

NTIA will not provide gifts or payments to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

No assurance of confidentiality is not provided.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not contain any questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

It is estimated that it will take 20 minutes to provide answers to this information collection.

414,000 respondents X 20 minutes = 138,000 hours

13. Provide an estimate of the total annual cost burden to the respondent or record keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Respondents will not incur any annual cost burden as a result of this information collection.

14. Provide estimates of annualized cost to the Federal government.

NTIA provided an Economic Analysis to OMB that provides a detailed analysis of the costs to the government as a result of this change in the coupon program regulations. Depending on the total number of requests from nursing home residents for coupons, NTIA estimates that government costs will be between approximately \$8.74M - \$13.09M.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

This is a new collection.

16. For data from the collections that will be published, outline the plans for tabulation and publication.

NTIA will not publish the data collected.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not Applicable.

18. Explain each exception to the certification statement identified in Item 19 of the

OMB 83-I.

No exceptions are requested.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information will not employ statistical methods.