

SUPPORTING STATEMENT

A. Justification:**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The information collection is a necessary element of a Commercial Mobile Alert System (CMAS), a mechanism under which Commercial Mobile Service (CMS) providers may elect to transmit emergency alerts to the public. The Commission has initiated a rulemaking proceeding to create the CMAS as required by Congress in the Warning Alert and Response Network (WARN) Act and to satisfy the Commission's mandate to promote the safety of life and property through the use of wire and radio communication.

On August 7, 2008, the Commission released the Third Report and Order in PS Docket No. 07-287 (CMAS Third Report and Order), FCC 08-184. The CMAS Third Report and Order implements provisions of the Warning, Alert and Response Network ("WARN") Act, including, inter alia, a requirement that within 30 days of release of the CMAS Third Report and Order, each Commercial Mobile Service (CMS) provider must file an election with the Commission indicating whether or not it intends to transmit emergency alerts as part of the Commercial Mobile Alert System (CMAS). The CMAS Third Report and Order noted that this filing requirement was subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act. OMB pre-approved the filing requirement on February 4, 2008. The Commission began accepting CMAS election filings on or before September 8, 2008.

The FCC is now requesting OMB approval for a revision to this information collection because all CMS providers are required to submit a CMAS election, including those that were not licensed at the time of the initial deadline for filing an election with the FCC. In addition, any CMS provider choosing to withdraw its election must notify the Commission at least sixty (60) days prior to the withdrawal of its election. The information collected will be the CMS provider's contact information and its election, i.e., a "yes" or "no," on whether it intends to provide commercial mobile service alerts. The Commission will use the information collected to meet its statutory requirement under the WARN Act to accept licensees' election filings and to establish an effective CMAS that will provide the public with effective mobile alerts in a manner that imposes minimal regulatory burdens on affected entities.

Additionally, CMS providers electing not to transmit, in part or in whole, in the CMAS must provide clear and conspicuous notice, which takes into account the needs of persons with disabilities, to new subscribers of its non-election or partial election at the point of sale. The point of sale includes stores, kiosks, third party reseller locations, web sites, and any other venue through which the CMS provider's devices and services are marketed and sold. The specific language of the notice is provided at 47 USC 10.240(c) and (d).

Finally, CMS providers electing not to transmit CMAS Alert messages, in part or in whole, must also provide clear and conspicuous notice, which takes into account the needs of persons with disabilities, to existing subscribers of its non-election or partial election by means of an announcement amending the existing subscriber's service agreement. In the case of prepaid customers, if a mailing address is available, the CMS provider must provide the required notification via U.S. mail. If no mailing address is available, the CMS provider must use any

reasonable method at its disposal to alert the customer to a change in the terms and conditions of service and directing the subscriber to a voice-based notification or to a Web site providing the required notification.

Since this collection of information is statutorily mandated, the Commission requests "approval" of this collection by OMB so that the Commission may continue to meet its statutory obligation under the WARN Act.

The collection of information is authorized under 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 403, 621(b)(3), and 621(d).

2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

This information collection will be used by the Commission to satisfy the statutory requirement of the WARN Act that the Commission receive notice of election by all CMS providers concerning whether they will participate in the CMAS.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Notices of election are to be submitted electronically to the Commission in the form of a letter.

If there are technical impediments to using the Web-based filing system, then a written notification to the Commission by email, FAX, courier, or U.S. Mail may be used. All non-electronic notifications shall contain the information required above, and shall be addressed to the Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, Washington, D.C. 20554. (However, all hand-delivered Notifications shall be addressed to the Federal Communications Commission, Office of the Secretary).

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

The reporting requirement is unique to the CMAS that the Commission is developing as required by the WARN Act and is not duplicated elsewhere.

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

This initial reporting requirement has been carefully designed to minimize the time and amount of data needed for the Commission to achieve its objectives as stated in item 1 above.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Failure to conduct the ongoing collection of notices of election in the time required by the WARN Act would constitute a violation of a Congressional mandate to the Commission. Further, the ability of the Commission to develop and deploy an effective CMAS would be jeopardized if the Commission is unable to receive a timely notice of election by CMS providers.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with the criteria listed in supporting statement question.

This collection of information is consistent with the guidelines delineated in the instructions in that this will not be a general collection of information, but rather is an one-time “yes or no” notice to the Commission for all existing and newly licensed CMS providers as well as a collection of change in election status for CMS providers that choose to change their participation in the CMAS.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency’s notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.

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

The Commission published a 60 day notice in the Federal Register on February 25, 2011 (76 FR 10592) as required by 5 CFR 1320.8(d). The Commission received no comments.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift to respondents has been or will be made.

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

There is no need for confidentiality with this collection of information.

11. Provide additional justification for any questions of a sensitive nature.

There are no questions of a sensitive nature involved with this collection of information.

12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

Notice of Election

Total Number of Respondents: 1,253.

Frequency of response: On occasion reporting requirement.

Total Number of Responses Annually: 1,253.

1,253 carriers x 1 reports/annually = **1,253 responses.**

Total Annual Burden Hours:

1,253 carriers x 1 reports/carrier/annually x .5 hours/report = **626.5 hours (rounded to 627 hours).**

Method of estimation of burden: The Notice of Election that Respondents must file with the Commission requires the submission of contact information plus a “yes or no” election. This time estimate is based solely on our estimate of the actual time needed for data entry and submission. In making our time estimate, we have taken into account that all filings are to be made electronically through the submission of a letter describing the CMS provider’s election. In sum, we estimate the total time needed to file this initial notice of election to be no more that 30 minutes (.5 hour).

Total Annual “In-House” Costs: The Commission estimates the hourly wage of full-time employee who will be submitting this information as \$28.85/hour. Therefore, the in-house costs to the respondents are as follows:

$\$28.85 \times 1,253 \text{ carriers} \times 1 \text{ report/annually} \times .5 \text{ hours per report} = \mathbf{\$18,074.53.}$

Notice At Time of Sale

Total Number of Respondents: 1,253.

Frequency of response: 1

Total Number of Responses Annually:

1,253 carriers x 1 reports/annually = **1,253 responses.**

Total Annual Burden Hours:

1,253 carriers x 1 reports/carrier/annually x 10 hours hours/report¹ = **12,530 hours.**

¹ The estimated time per response can take from .5 hours to 10 hours for this requirement but the Commission is basing its calculation on 10 hours per response for this requirement.

Total Annual “In-House” Costs: The Commission estimates the hourly wage of full-time employee who will be submitting this information as \$28.85/hour. Therefore, the in-house costs to the respondents are as follows:

$\$28.85 \times \text{carriers} \times 1,253 \text{ report/annually} \times 10 \text{ hours per report} = \mathbf{\$361,490.00}$.

Notice to Current Subscribers

Total Number of Respondents: 1,253.

Frequency of response: 1.

Total Number of Responses Annually:

$1,253 \text{ carriers} \times 1 \text{ reports/annually} = \mathbf{1,253 \text{ responses}}$.

Total Annual Burden Hours:

$1,253 \text{ carriers} \times 1 \text{ reports/carrier/annually} \times 12 \text{ hours/report} = \mathbf{15,036 \text{ hours}}$.

Total Annual “In-House” Costs: The Commission estimates the hourly wage of full-time employee who will be submitting this information as \$28.85/hour. Therefore, the in-house costs to the respondents are as follows:

$\$28.85 \times \text{carriers} \times 1,253 \text{ report/annually} \times 12 \text{ hours per report} = \mathbf{\$433,788.00}$.

Total Number of Respondents: 1,253 CMS providers.

Total Number of Annual Responses: $1,253 + 1,253 + 1,253 = \mathbf{3,759 \text{ responses}}$.

Total Combined Burden Hours: $627 + 12,530 + 15,036 = \mathbf{28,193 \text{ hours}}$.

Total Combined “In-house” Cost: $\$18,074.53 + \$361,490.00 + \$433,788.00 = \mathbf{\$813,352.53}$.

13. Provide estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).

There is no cost to the respondents.

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expenses that would not have been incurred without this collection of information.

There are no costs to the Commission beyond what we consider to be part of the FCC’s normal operating costs.

15. Explain the reasons for any program changes or adjustments to this information collection.

The Commission is reporting a program change/increase of 28,068 hours to the total annual burden as a result of the information collection requirements contained in the Third Report and Order, FCC 08-184.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The FCC will maintain a Microsoft Excel file on its website listing the names and election decision of all CMS providers that submit an election decision. The information will be maintained on the FCC's public website. The public information will be updated as needed to reflect new or changed election filings by CMS providers.

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

The Commission does not intend to seek approval not to display the expiration date of the information collection from OMB.

18. Explain any exceptions to the Certification Statement.

The Commission published a 60 day notice in the Federal Register on February 25, 2011 (76 FR 10592) as required by 5 CFR 1320.8(d). In the notice, the Commission listed recordkeeping and third party disclosure requirements as requirements to this collection. After further review, the Commission has determined that on occasion reporting requirement is the only reporting requirement for this information collection. Also, the Commission published in the notice the number of responses as 1,253, the annual burden hours as 627 and the estimated time per response as .05 hours. We correct these figures as follows: the number of responses is 3,759, the annual burden hours are 28,193 and the estimated time per response is .5 – 12 hours. There are no other exceptions to the Certification Statement.

B. Collections of Information Employment Statistical Methods:

This information collection does not employ any statistical methods.