

New collection entitled: EAS Fifth Report and Order, FCC 12-7

SUPPORTING STATEMENT

A. Justification:

1. Part 11 contains rules and regulations addressing the nation's Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public at the national, state and local area level during periods of national emergency. The EAS also provides state and local governments and the National Weather Service with the capability to provide immediate communications and information to the general public concerning emergency situations posing a threat to life and property.

In the *Second Report and Order and Further Notice of Proposed Rulemaking* in EB Docket No. 04-296, FCC 07-109, the Commission adopted rules that, among other things, obligate entities required to participate in the EAS (EAS Participants) to process alert messages using the Common Alerting Protocol (CAP).

For this new collection, the Commission is requesting emergency OMB processing for the requirements in the *Fifth Report and Order* in EB Docket No. 04-296, FCC 12-7. The Commission is seeking emergency OMB approval by April 16, 2012. The Commission amends its Part 11 rules governing the EAS to more fully codify the existing obligation to process CAP-formatted alert messages adopted in the *Second Report and Order*, and to streamline and clarify these rules to eliminate superfluous and stale requirements and generally enhance their effectiveness.

The FCC is submitting this new information collection to the Office of Management and Budget (OMB) for approval to modify various information collection requirements that already exist in the Part 11 rules. As explained below, all of these modifications involve elimination or clarification of existing information collection requirements. None of these modifications establish new information collection requirements, except that the *Fifth Report and Order* does establish certain data and other materials that must be submitted to the FCC in order for EAS equipment to comply with existing equipment authorization requirements to which they were already subject. In general, the Commission estimates that these modifications will not add significant burdens to EAS Participants or the Federal government. The Commission currently has the Part 11, EAS Program (OMB Control No. 3060-0207) under review at OMB, therefore, we are submitting this as a new collection so that OMB can review and approve the *Fifth Report and Order* and the requirements can go into effect in a timely manner. At a later time, we plan to consolidate the requirements of both of these collections under OMB Control No. 3060-0207.

The following information collections contained in Part 11 may be impacted by these rule amendments:

Section 11.21(a). Section 11.21(a) generally specifies the contents of State and Local Area EAS Plans and the FCC Mapbook. Among other things, section 11.21(a) indicates that such plans should identify the “monitoring assignments and the specific primary and backup path for the EAN from the PEP to each station in the plan.” The *Fifth Report and Order* amends the State Area EAS Plan requirements in section 11.21(a) to clarify that the State EAS Plans specify the monitoring assignments and the specific primary and backup path for SAME-formatted EANs (Emergency Action Notices) and that the monitoring requirements for CAP-formatted EANs are set forth in section 11.52.

Section 11.33(a)(4). Section 11.33(a)(4) specifies certain visual display and logging requirements for EAS decoders. This section currently requires, among other things, the development of visual display information from the EAS message header codes, including the originator, event, location, valid time period of the message, and the local time it was transmitted. This section also requires that existing and new models of EAS decoders manufactured after August 1, 2003, provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events. The *Fifth Report and Order* amends this section to specify that if an alert message is derived from a CAP-formatted message, the contents of the text, assembled pursuant to ECIG Implementation Guide, should be added to the EAS device log.

Section 11.41(b). Section 11.41(b) allows EAS Participants to submit a written request to the FCC asking to be a Non-Participating National source, which in turn allows them to not participate fully in the national level EAS activation. The *Fifth Report and Order* eliminates NN status and thus deletes all references to NN status from section 11.41 (and other sections) of the Part 11 rules.

Section 11.42. Section 11.42, among other things, allows a communications common carrier to participate in the national level EAS, without charge. A communications common carrier rendering free service is required to file with the FCC, on or before July 31st and January 31st of each year, reports covering the six months ending on June 30th and December 31st respectively. These reports were required to identify what free service was rendered under this rule and the charges in dollars that would have accrued to the carrier for this service if charges had been collected at the published tariff rates if such carriers were required to file tariffs. The *Fifth Report and Order* deletes section 11.42 in its entirety.

Section 11.54(b)(13). Section 11.54(b)(13) requires that EAS Participants enter into their logs/records the time of receipt of an EAN and an Emergency Action Termination (EAT) messages during a national level emergency. The *Fifth Report and Order* amends this section to eliminate the requirement that EAS Participants enter into their logs/records the time of receipt of EAT messages during a national level emergency.

Section 11.55. Section 11.55 requires EAS participants to monitor their emergency alert system upon receipt of a state or local area EAS message. Among other things, stations/systems must enter into their logs/records the time of receipt of an emergency alert message. The *Fifth Report and Order* amends this section by clarifying that the time of receipt of CAP-formatted emergency alert messages must be entered into the stations/systems’ logs/records.

Certification procedures for meeting general certification requirement under section 11.34. Paragraphs 164-167, 170-171 and 175-176 of the *Fifth Report and Order* establish that integrated CAP-capable EAS devices and intermediate devices that are used in tandem with legacy EAS equipment are subject to the Commission's existing device certification requirements set forth in the Commission's Part 2 equipment authorization rules. These paragraphs also establish specific procedures by which EAS device manufacturers can update existing device certifications and obtain new certifications, which generally involve the submission of test data and other materials to the FCC.

Statutory authority for this collection of information is contained in 47 U.S.C. sections 154(i) and 606 of the Communications Act of 1934, as amended.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information collected by the Commission is used to confirm that EAS devices comply with the technical and performance requirements set forth in the EAS rules and other applicable rules maintained by the Commission. These rules are designed to minimize electrical radiofrequency interference and to ensure that the EAS, including individual devices within the EAS, operate as intended.

3. Automated logging devices are used by entities to record entries in the station log. In addition, EAS alerts are received electronically via advanced digital signaling equipment.

4. The Commission does not impose a similar collection; however this new collection is related to OMB Control No. 3060-0207. For the extension request currently under review at the OMB for OMB Control No. 3060-0207 and the assignment of an OMB control number for this new collection, the Commission will consolidate the requirements of both of these collections into one comprehensive collection under OMB Control No. 3060-0207 at a later date.

5. Part 11 was designed to minimize the burden for all respondents regardless of size.

6. The EAS requirements are designed to benefit the EAS Participants and the people of their community, not the federal government. Any reduction in the frequency of this activity would result in a proportional loss of benefit and would cause a delay in the detection of equipment failures that would cause the loss of national, state and local emergency messages to the public and could cause loss of life and property.

7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(8).

8. The Commission is submitting this collection as an emergency request to the Office of Management and Budget (OMB) and is therefore, requesting a waiver of the 60 day notice requirement published in the Federal Register. The Commission did publish a 30 day notice which is part of this emergency request. Finally, the Commission plans on conducting all the normal clearance procedures, include the necessary notices and solicitation of comments, upon OMB approval of the emergency request.

9. No payment or gift was provided to the respondents.

10. There is no need for confidentiality.

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

12. The following is provided for burden estimates. The rule amendments affect EAS Participants. These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

The Commission estimates that there are 63,070 entities that technically are impacted by the various modifications in the *Fifth Report and Order* (63,000 EAS participants, 50 NN status entities, 10 common carriers and 10 manufacturers). Of these only 10 entities – 10 manufacturers – have to submit information. Most of the modifications are collection clarifications or collection eliminations that do not require anything. Accordingly, while there technically are 63,070 respondents, only 10 respondents (manufacturers) have any burden. Therefore, for this submission, we are estimating 10 manufacturers x 20 hours per response = 200 total burden hours.

	<u># of Respondents</u>	<u># of Responses per Respondent</u>	<u>Total Responses</u>	<u>Burden per Response</u>	<u>Total Burden</u>	<u>Est. Hourly Wage of Respondent</u>	<u>Total Est. In-House Cost to Respondent</u>
Section 11.21(a)	50 (states)	N/A	N/A (clarifying existing requirement)	N/A	N/A	N/A	\$0
Section 11.33(a) (4)	10 (manufacturers)	N/A	N/A (equipment requirement)	N/A	N/A	\$40	\$8,000
Section 11.41	63,000	N/A	N/A (eliminating a voluntary filing requirement)	N/A	N/A	N/A	\$0
Section 11.42	10 (common carriers)	N/A	N/A (eliminating a filing requirement)	N/A	N/A	N/A	\$0
Section 11.54(b) (13)	63,000	N/A	N/A (eliminating logging requirement)	N/A	N/A	N/A	\$0
Section 11.55	63,000	N/A	N/A (clarifying existing requirement)	N/A	N/A	N/A	\$0

Paragraphs 164-167, 170-171 and 175-176	10 (manufacturers)	1	10	20 hours	200 hours	\$40	\$8,000
Total	10		20		200 hours		\$16,000

We assume that an engineer at the EAS device manufacturer would implement requirements associated with EAS device performance. We estimate that this engineer would have an average salary of \$40/hour. The Commission has adopted generally applicable certification-related application processing fees (\$1,265.00 for new certification applications and \$60.00 to update the file of a previously certified device). Although we estimated 10 hours per of expended time per manufacturer to submit a certification-related filing, we do not incorporate such application fees into our estimate of cost burdens to manufacturers because these fees would apply regardless of the certification procedures outlined in the *Fifth Report and Order*.

13. Annual Cost Burden to the Respondent. The Commission does not anticipate that respondents will need to incur new capital or start-up costs, or new operation and maintenance and purchase of services costs to respond to these information collection modifications and clarifications.

14. Cost to the Federal Government: The Commission estimates that it will use GS-13's (\$51.68/ hour) to process the materials submitted for device certification in connection with paragraphs 164-167, 170-171 and 175-176 of the *Fifth Report and Order*. The Commission estimates an average processing time per related filing of 3 hours. It is impossible to estimate how many filings specifically related to these paragraphs may be filed. Assuming that ten manufacturers submit ten new certification-related filings, the total cost to the Federal government to process those would be approximately: $10 \times 3 \text{ hours} \times \$51.68 = \mathbf{\$1,550.40}$.

15. This is a new information collection resulting in a program change increase of 200 total annual burden hours.

16. Data submitted for purposes of obtaining equipment certification is publicly available unless (i) the data is eligible for confidential treatment, and (ii) the applicant formally requests such treatment. State and local EAS Plans are publicly available. Other data collections associated with this collection are not published by the Commission.

17. The Commission is requesting a waiver of displaying the OMB expiration date on the on-line application screens because that would require updating those screens each time this collection was submitted to OMB for review and approval. The Commission displays the OMB control number, OMB expiration date and title of the information collection in 47 CFR 0.459 of the Commission's rules.

18. There are exceptions to the certification statement. The Commission sought a waiver of the required 60-day notice published in the Federal Register to solicit public comment. However,

the Commission has published a 15 day notice announcing that we are requesting emergency processing of this new information collection. We will publish the requisite 60 day notice after obtaining OMB approval. All the normal OMB clearance procedures will be followed to obtain the full three year approval from them.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.