

SUPPORTING STATEMENT

A. Justification:

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.

The FCC is now submitting this information collection to the Office of Management and Budget (OMB) for revision of the previously-approved information collection that established the mandatory Electronic Test Reporting System (ETRS) that EAS Participants must utilize to file identifying and test result data as part of their participation in nationwide EAS testing. The Notice of Proposed Rulemaking adopted in PS Docket Nos. 15-94 and 15-91, FCC 16-5 (*Notice of Proposed Rulemaking*), proposes several revisions to this collection. Specifically, the Commission proposes to streamline and update the State EAS Plan filing process by requiring State Emergency Communications Committees (SECCs) to file their Plans electronically in an online State EAS Plan filing system. The Commission also proposes to require certification of performance of required security measures pursuant to specific criteria that demonstrate implementation of the best practices recommended by the Communications Security, Reliability, and Interoperability Council (CSRIC) IV Security Report. In addition, the Commission proposes to require reporting of false alerts and lockouts. The estimated effect of these proposed changes on the burden estimates and reporting and recordkeeping requirements for this collection is explained below.

Proposed Revisions to Information Collection which Require OMB Approval:

In the *Notice of Proposed Rulemaking*, the Commission proposes to convert the paper-based filing process for State EAS Plans into a secure online process using a State EAS Plan Filing Interface (SEPMI) that would be designed to interoperate with ETRS and to minimize filing burdens attendant to the Commission's State EAS Plan requirements. The Commission estimates that efficiencies and other benefits of an online, template-based process (such as standardization of the information offered by the State EAS Plans) would offset any increase in the reporting and recordkeeping burden from requiring SECCs to re-enter State EAS Plan data online.

The Commission also proposes to add at Section 11.44 of its rules a requirement for EAS Participants to submit via ETRS an annual reliability certification form attesting that they are following EAS security best practices. The Commission expects that the information required to make a determination by the certifying official is readily available as part of the Participant's normal operations, and that the amount of legal and management review is negligible given that the best practices to which they certify are well known and have been carefully assessed by

industry in the CSRIC process. Further, the Commission estimates that certification should add an average of fifteen minutes to the annual update of the “identifying information” section in ETRS, resulting in an increased cost to industry of approximately \$549,360 per year. If additional legal and management review would be required, the Commission assumes it would only be required the first year to ensure appropriate internal processes were in place and would amount to no more than an average of one hour per company for an additional \$2,197,440 the first year.

In addition, the Commission proposes to amend Section 11.45 of its rules to require EAS Participants to report via ETRS the issuance or retransmission of a false EAS message or any instances when their EAS equipment causes, contributes to, or participates in a lockout that adversely affects the public. In the case of the proposed false alert reporting, the Commission estimates that complying with the reporting requirement will require approximately fifteen minutes for the initial report and forty-five minutes for the final report, for a total of one hour and an estimated cost of \$46,400 per year. In the case of the proposed lockout notifications, the Commission estimates that complying with the reporting requirement will require approximately fifteen minutes for the initial report and forty-five minutes for the final report, for a total of one hour and an estimated cost of \$800 per year.

Current Information Collection Requirements previously approved by OMB:

In the *Third Report and Order* in EB Docket No. 04-296, FCC 11-12, the Commission adopted rules establishing a regulatory structure for a national test of the EAS. In order for the Commission to determine the extent to which the test, and by extension the EAS, was successful, the FCC adopted rules requiring EAS Participants, within forty five (45) days of the date of the first national EAS test, to record and submit to the Commission the following test-related diagnostic information for each alert received from each message source monitored at the time of the national test:

- Whether they received the alert message during the designated test;
- Whether they retransmitted the alert;
- If they were not able to receive and/or transmit the alert, their ‘best effort’ diagnostic analysis regarding the cause(s) for such failure;
- A description of their station identification and level of designation (PEP, LP-1, etc.);
- The date/time of receipt of the EAN message by all stations; the date/time of PEP station acknowledgement of receipt of the EAN message to FOC;
- The date/time of initiation of actual broadcast of the Presidential message;
- The date/time of receipt of the EAT message by all stations;
- Who they were monitoring at the time of the test, and the make and
- Model number of the EAS equipment that they utilized.

The *Third Report and Order* indicates that the national tests of EAS, and related information collections will likely be carried out on an annual basis. On March 10, 2010, OMB approved the collection as indicated by the related Notice of Office of Management and Budget Action

notification.

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 require states to file new EAS plans with the Commission under certain circumstances, expand the number of private entities covered by EAS, and impose new obligations on private entities. These rules may impact currently existing paperwork collection requirements as discussed below.

In the *Second Report and Order*, the Commission adopted a rule obligating EAS Participants to accept a message using a common EAS messaging protocol, the Common Alerting Protocol v1.1 (CAP), no later than 180 days after FEMA publicly publishes its adoption of such standard; requires EAS Participants to adopt Next Generation EAS delivery systems no later than 180 days after FEMA publicly releases standards for those systems; expands the number of EAS Participants by including wireline common carriers providing video programming (“wireline video systems”); and requires EAS Participants to transmit state and local EAS alerts that are originated by governors or their designees no later than 180 days after FEMA publishes its adoption of the CAP standard, provided that the state has a Commission-approved EAS state plan that provides for delivery of such alerts.

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

Section 11.15 requires a copy of the EAS operating handbook to be located at normal duty positions or EAS equipment locations when an operator is required to be on duty. The handbook must be immediately available to staff responsible for authenticating messages and initiating actions. Copies of the handbook are posted on the Commission’s website and can be obtained at www.fcc.gov/pshs/eas/.

Section 11.21 requires that state and local EAS plans be reviewed and approved by the Chief, Public Safety and Homeland Security, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

Section 11.34 requires manufacturers to include instructions and information on how to install, operate and program an EAS Encoder, EAS Decoder, or combined unit and a list of all State and county FIPS numbers with each unit sold or marketed in the U.S. This requirement would be done in the normal course of doing business.

All EAS Participants are responsible for ensuring that EAS Encoders/Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations/systems are in operation. EAS Participants must determine the cause of any failure to receive the required tests or activations. When the EAS is not operating properly, section 11.35 requires appropriate entries be made in the station/system logs indicating why any tests were not received for all broadcast streams and cable systems. All other EAS Participants must also keep record indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant’s headquarters, and made available for public

inspection upon reasonable request.

Section 11.35 also requires that entries be made in the station/system logs, and records of other EAS Participants, when the EAS Encoder/Decoder becomes defective showing the date and time the equipment was removed and restored to service. If replacement of defective equipment is not completed within 60 days, an informal request shall be submitted to the District Director of the FCC field office. For DBS and SDARS providers, this informal request shall be submitted to the District Director of the FCC field office serving the area where their headquarters is located. This request must explain what steps have been taken to repair or replace the defective equipment, the alternative procedures being used while the defective equipment is out of service and when the defective equipment will be repaired or replaced.

Section 11.41 allows all EAS Participants to submit a written request to the FCC asking to be a Non-Participating National source. In addition, a Non-Participating National source that wants to become a Participating National source must submit a written request to the FCC.

Section 11.42 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 shall state what free service was rendered under this rule and the charges in dollars which would have accrued to the carrier for this service if charges had been collected at the published tariff rates if such carriers are required to file tariffs.

Section 11.43 allows entities to voluntarily participate in the national level EAS after submission of a written request to the Chief, Public Safety and Homeland Security Bureau.

Section 11.51 requires that EAS equipment be operational, ready to monitor, transmit and receive EAS electronic signals. Cable and wireless cable systems, both analog and digital, can elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Furthermore, cable and wireless cable systems, both analog and digital, can elect not to interrupt the programming of a broadcast station carrying news or weather related emergency information with state and local EAS messages based upon a written agreement between all concerned. These written agreements are contained in state and local franchise agreements.

Section 11.51 also requires all actions to be logged when manual interruption of programming and transmission of EAS messages is used. Estimates for testing are included in the estimate for section 11.61.

Section 11.52 requires all EAS Participants to monitor two EAS sources. If the required EAS sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the FCC's EAS office. In an emergency, a waiver may be issued over the telephone with a follow-up letter to confirm temporary or permanent reassignment. In addition, EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the event codes for emergency

action notification, emergency action termination and required monthly test for their state or state/county location.

Section 11.54 requires EAS Participants to enter into their logs/records the time of receipt of an emergency alert notice and an emergency action termination messages during a national level emergency.

Section 11.55 requires EAS participants to monitor their emergency alert system upon receipt of a state or local area EAS message. Stations/systems must also enter into their logs/records the time of receipt of an emergency alert message. If an SDARS licensee or DBS provider is unable to receive and transmit state and local EAS messages, it must inform its subscribers, on its website, and in writing on an annual basis of which channels are and are not capable of supplying state and local EAS messages.

Section 11.61 requires EAS Participants to conduct periodic EAS tests. Tests of the EAS header codes, attention signal, test script and EOM code are required to be performed monthly. Tests of the EAS header codes and end of message codes are made at least once a week. National primary sources shall participate in tests as appropriate. DBS providers, Class D non-commercial educational FM stations and low power TV stations are not required to transmit this test but must log receipt of the test. The FCC may request a report of the tests of the national primary sources. In addition, entries must be made in stations/systems logs/records as previously stated.

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. This information is used by FCC staff as part of routine inspections of EAS Participants. Accurate recordkeeping of this data is vital in determining the location and nature of possible equipment failure on the part of the transmitting or receiving entity. Furthermore, since the national level EAS is solely for the President's use, its proper operation must be assured.
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. This agency does not impose a similar information collection on the respondents. There is no similar data available.
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)(2).

8. Pursuant to 5 CFR 1320.8(d), the Commission published a notice in the Federal Register on March 24, 2016 (81 FR 15792). To date, no PRA comments have been received.

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

10. Filings will be given the presumption of confidentiality. The Commission will allow test data and reports containing individual test data to be shared on a confidential basis with other Federal agencies and state governmental emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act (FOIA). See 5 U.S.C. § 552 (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110175, 121 Stat. 2524 (stating the FOIA confidentiality standard, along with relevant exemptions).

In the *Notice of Proposed Rulemaking*, the Commission seeks comment on whether any aspects of State EAS Plans submitted via the State EAS Plan Filing Interface (SEPMI) should be made confidential and, further, whether it would be sufficient to provide such data with the same level of confidentiality as test data submitted to the Commission via the Electronic Test Reporting System (ETRS). The Commission has stated that it will allow such data to be shared on a confidential basis with other Federal agencies and state government emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act (FOIA, 5 U.S.C. 552 (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524). The Commission also seeks comment on the degree of confidentiality that should be provided for the security certifications and false alert and lockout notifications submitted to the Commission via ETRS. Specifically, the Commission seeks comment on its tentative conclusion that the act of filing an annual certification and the responses on the face of such certification forms should not be treated as presumptively confidential but that the act of filing addenda to the certification describing alternative approaches or corrective action with respect to performance of required security measures, as well as the contents of such addenda, should be treated as presumptively confidential. The Commission also seeks comment on its tentative conclusion that the mere fact of filing or not filing a false alert report or lockout notification should not be treated as presumptively confidential, while the information submitted in the report should be treated as presumptively confidential. The Commission's requirements for confidentiality of proposed certification and reporting information will not affect its prior determination regarding confidentiality of test data.

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

12. The following is provided for burden estimates. The proposed requirements affect SECCs and EAS Participants. These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required. Burden estimates for the requirements proposed in the *Notice of Proposed Rulemaking* are provided below **in bold typeface**. The totals at the bottom of the table include these estimates and are also provided in bold. The burden estimate for the proposed

certification requirement at Section 11.44 of the rules reflects additional legal and management review that the Commission expects would be required only in the first year. The burden estimates for this portion of the table (and the totals at the end of the table) therefore overstate to a certain degree the burden the Commission expects in subsequent years.

	<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 11.15	63,000	1	63,000	0.1 hour	6,300 hours	\$38	\$239,400
Section 11.21	50 (states)	1	50	20 hours	1,000 hours	\$25	\$25,000
Section 11.34	10 (manufacturers)	1	10	20 hours	200 hours	\$25	\$5,000
Section 11.35	400	1	400	0.017 hour	7 hours	\$38	\$266
Section 11.35	300	1	300	0.5 hour	150 hours	\$38	\$5,700
Section 11.41	10	1	10	0.5 hour	5 hours	\$38	\$190
Section 11.42	10 (common carriers)	1	10	1.0 hour	10 hours	\$38	\$380
Section 11.43	10 (voluntary entities)	1	10	0.5 hour	5 hours	\$38	\$190
Section 11.44	27,468	1	27,468	1.25 hours	34,335 hours	\$80	\$2,746,800
Section 11.45	580	1	580	1.0 hour	580 hours	\$80	\$46,400
Section 11.45	10	1	10	1.0 hour	10 hours	\$80	\$800
Section 11.51	4,373	1	4,373	0.17 hour	743 hours	\$38	\$28,234
Section 11.51	63,000	1	63,000	0.017	1,071 hours	\$38	\$40,698
Section 11.52	20	1	20	0.5 hour	10 hours	\$38	\$380
Section 11.52	5	1	5	1.0 hour	5 hours	\$38	\$190
Section 11.54	63,000	1	63,000	0.017 hour	1,071 hours	\$38	\$40,698
Section	63,000	1	63,000	0.017	1,071	\$38	\$40,698

11.55				hour	hours		
Section 11.55	8	1	8	3 hours	24 hours	\$25	\$600
Section 11.61	63,000	40	2,520,000	0.017 hour	42,840 hours	\$38	\$1,627,920
Section 11.61	63,000	12	756,000	0.034 hour	25,704 hours	\$38	\$976,752
Section 11.61	35,832	1	35,832	0.05 hour	1,792	\$38	\$68,096
Totals	63,080		3,597,086		116,933 hours		\$5,894,392

With respect to the proposed certification and reporting requirements in the *Notice of Proposed Rulemaking*, the Commission estimates that the official preparing the certification or notification would have an average salary of \$80 per hour. In the case of the proposed certification requirement, the Commission estimates that 27,468 EAS Participants would be required to file.¹ With respect to the proposed false alert notifications, the Commission estimates that there would be two incidents per year and that 290 EAS Participants would be required to file a report per incident. With respect to the proposed lockout notifications, the Commission estimates that there would be one incident per year and that 10 EAS Participants would be required to file a report per incident.

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

14. Cost to the Federal Government: The Commission uses GS-13, Step 5, locality adjusted for the pay area of Washington-Baltimore-Northern Virginia in 2016 (\$50.04/hour) to process the information submitted to the Commission in connection with sections 11.21, 11.35, 11.41, 11.43, and 11.52.

50 x 6 hours x \$50.04 = \$15,012
300 x 0.5 hours x \$50.04 = \$7,506
10 x 0.5 hours x \$50.04 = \$250.20
10 x 1.0 hours x \$50.04 = \$500.40
20 x 0.5 hours x \$50.04 = \$500.40
5 x 1.0 hours x \$50.04 = \$250.20

Current Total Cost to the Federal Government: \$24,019.20

¹ See Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; New Part 4 of the Commission's Rules Concerning Disruptions to Communications, PS Docket No. 15-80, ET Docket No. 04-35, *Notice of Proposed Rulemaking, Second Report and Order and order on Reconsideration*, 30 FCC Rcd 3206, 3221 ¶ 44 (2015) (estimating that staff completing comparable reports would be paid a \$80/per hour salary); see also Review of the Emergency Alert System, EB Docket No. 04-296, *Notice of Proposed Rulemaking*, 29 FCC Rcd 8123, 8147, n.162 (2014) (estimating that there are a total of 27,468 EAS Participants).

Adoption of the proposed requirements will increase the total cost to the Federal Government. For the *Notice of Proposed Rulemaking*, the Commission will use GS-13, Step 5, locality adjusted for the pay area of Washington-Baltimore-Northern Virginia in 2016 (\$50.04 /hour) to process the information submitted to the Commission in connection with the proposed certification and reporting requirements.

$$\begin{aligned} 27,468 \times 0.75 \text{ hour} \times \$50.04 &= \$ 1,030,874 \\ 580 \times 0.5 \text{ hour} \times \$50.04 &= \$14,511.60 \\ 10 \times 0.5 \text{ hour} \times \$50.04 &= \$250.20 \end{aligned}$$

Proposed Cumulative Total Cost to the Federal Government: \$1,045,635.80

Proposed Total Cost to the Federal Government: \$24,019.20 + \$1,045,635.80 = \$1,069,655.00

15. If the Commission adopts the information collection requirements as proposed in a final rulemaking, the following burdens/increases will be added to OMB's inventory. The total number of responses will increase from 3,569,028 to 3,597,086 (+28,058) and the total annual burden hours will increase from 82,008 hours to 116,933 hours (+34,925). There are no changes to the number of respondents.

16. The data will not be published.

17. The Commission is requesting a waiver of displaying the OMB control number on the on-line application screens because that would require updating each time this collection was submitted to OMB for review and approval. The Commission displays the OMB expiration date, title and OMB control number in 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.