

**SUPPORTING STATEMENT**

**A. Justification:**

1. The Warning, Alert and Response Network Act, Title VI of the Security and Accountability for Every Port Act of 2006 (120 Stat. 1884, section 602(a), codified at 47 U.S.C. 1201, et seq., 1202(a)) (WARN Act) gives the Federal Communications Commission (Commission) authority to adopt relevant technical standards, protocols, procedures and other technical requirements governing Wireless Emergency Alerts (WEA). The Commission created WEA 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. The Commission's WEA regulations create a framework for Commercial Mobile Service (CMS) providers to voluntarily distribute emergency alerts to their subscribers' mobile handsets.

On January 1, 2021, Congress passed the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (NDAA21). Section 9201 of the NDAA21 required the Commission to complete a rulemaking and adopt rules within 180 days to make certain changes to its WEA regulations, and also to its separate Emergency Alert System (EAS) regulations governing broadcast, cable television, and direct satellite media emergency alerts. With respect to the WEA rule changes, Section 9201 directed the Commission to ensure that the mobile devices of CMS providers that have elected to participate in WEA cannot opt out of receiving WEA alerts from the Federal Emergency Management Agency (FEMA) Administrator, and to enable reporting by the FEMA Administrator and State, Tribal, or local governments of false WEA alerts.

On June 17, 2021, the Commission adopted a Report and Order), FCC 21-77, (available in PS Dockets 15-91 and 15-94 at <https://docs.fcc.gov/public/attachments/FCC-21-77A1.pdf>) (NDAA21 Alerting Order) adopting the WEA and EAS changes directed by Congress in the NDAA. The NDAA21 Alerting Order implemented Congresses' directives for WEA by adopting the following regulations:

Handset Display Update. The NDAA21 Alerting Order combines the current non-optional class of WEA "Presidential Alerts" with FEMA Administrator Alerts to create a new, renamed alert class named "National Alerts." Participating CMS providers that have chosen to display the phrase "Presidential Alert" on their handsets are required to either discontinue the handset's use of that phrase or otherwise change those displays to read "National Alert" by July 31, 2022. Network infrastructure that is technically incapable of meeting this requirement, such as legacy devices or networks that cannot be updated to support header display changes, are exempt from this requirement. The handset display changes are necessary to avoid confusion when wireless subscribers receive a non-optional emergency alert from the FEMA Administrator instead of the President. The handset display update regulation is codified at 47 CFR § 10.11(b).

False Alert Reporting. This rule permits the FEMA Administrator or a State, local, Tribal, or territorial government to voluntarily report WEA false alerts to the FCC Operations Center at FCCOPS@fcc.gov, informing the Commission of the event and any relevant details. This creates a voluntary mechanism for collection of information so that the Commission can monitor these false alert events which can undermine public confidence in the reliability of emergency alerting and WEA. The false alert reporting regulation is codified at 47 CFR § 10.520(d)(2).

This new proposed information collection involving WEA is the third such collection related to its part 10 WEA regulations. OMB previously approved two currently active WEA information collections, one for testing and logging requirements (OMB Control No. 3060-1126) and one for elections to participate in WEA (OMB Control No. 3060-1113).

This information collection is authorized under 47 U.S.C. §§ 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, 613, 1201, 1202, 1203, 1204 and 1206.

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

2. Handset Display Update: This rule will ensure that most wireless subscribers will no longer see the display text “Presidential Alert” on their handsets. The purpose of this change is to avoid confusion when wireless subscribers receive a non-optional emergency alert from the FEMA Administrator instead of the President, and to give FEMA and the President the flexibility to identify the alert originators for National Alerts in a way that best suits the public safety need to focus individuals on the emergency situation at hand.

False Alert Reporting: Voluntary WEA false alert reports submitted by government entities will be used by the Commission to record and track instances of false alert events that reach the public, and to examine the causes of such false alerts to help promote more effective alerting by protecting public confidence in the reliability of alerting systems.

3. Handset Display Update: This collection involves software updates that can be pushed to wireless handsets over-the-air, or changes to the software in newly manufactured wireless handset devices. To reduce the burden on participating CMS providers, network infrastructure that is technically incapable of meeting this requirement are not required to make software changes. As described in the NDAA21 Alerting Order, the Commission implemented this software update requirement instead of the alternative, more burdensome option of requiring network infrastructure changes.

False Alert Reporting: The voluntary WEA false alert reporting system will be entirely electronic, with all reports submitted to the Commission by email, without any paper filing. The Commission implemented electronic email filing for false alert reports to minimize the burden on government entities submitting reports.

4. The handset display update rule is unique to WEA and is not duplicated elsewhere.

The WEA false alert reporting collection is similar to rules in the Commission’s part 11 EAS regulations, specifically 47 CFR § 11.45(b), which requires EAS participants to report EAS false alerts and 47 CFR § 11.45(c), which permits government entities to report EAS false alerts on a voluntary basis. The false alert reporting rule in this collection is limited to WEA false alert reports, and therefore does not overlap with the EAS false alert reporting rules. To minimize any potential for duplication, the Commission wrote these rules to ensure all false alert reports will be sent to the same email address – FCCOPS@fcc.gov.

5. These requirements have been carefully designed to minimize the time and amount of data needed for the Commission to achieve its objectives, as described above. Further specific steps to minimize impact on small entities include:

Handset Display Update: To further minimize the impact on CMS providers or handset vendors, the Commission’s handset update rule specifically exempts handsets that are “technically incapable of meeting this requirement, such as situations in which legacy devices or networks cannot be updated to support header display changes...” This exemption avoids imposing undue costs on small businesses to update older handsets or those which do not support over-the-air software updates, or that are operating on older wireless networks that cannot provide over-the-air updates to the handsets. To further minimize the burden on small businesses, the Commission adopted a compliance deadline of July 31, 2022, which is over thirteen months from the date the NDAA21 Alerting Order.

False Alert Reporting: To further minimize the impact on small local or Tribal governments voluntarily electing to file reports, the Commission considered and declined to require a template or questionnaire format for these reports. Instead the Commission provided recommended included information as guidelines, allowing reporting entities maximum flexibility in filing reports.

6. Handset Display Update: Failure to make the handset display change from Presidential Alert to National Alert jeopardizes public safety by creating confusion if the FEMA Administrator sends an alert and the handset displays the Presidential Alert language.

False Alert Reporting: This information collection is voluntary. However, not conducting this collection would deprive the Commission of information about deficiencies in WEA which could undermine public confidence in alerting, and impair the Commission’s ability to take future regulatory actions to improve WEA.

7. We do not foresee special circumstances that would result in these information collections being inconsistent with the listed criteria. The handset display update is a one-time requirement which is within the capability of respondents to meet in the time frame provided. The false alert reporting rule is voluntary for government entities.

8. The Commission published a 60-day notice in the Federal Register seeking comments from the public on December 22, 2022 (86 FR 72598). No PRA Comments were received as a result of this Notice.

The Commission also sought comment on these collections in its March 19, 2021 Notice of Proposed Rulemaking, FCC 21-36, at paragraphs 13 to 19 and paragraphs 35 to 40 (available in PS Dockets 15-91 and 15-94 at <https://docs.fcc.gov/public/attachments/FCC-21-36A1.pdf>).

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

10. There are no assurance of confidentiality associated with this collection of information.

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

**12. Handset Update**

**Total Number of Respondents:** 76 participating CMS providers.

To estimate the total number of respondents, we reference the WEA election docket, PS 08-146, in which participating CMS providers have filed their elections to participate in WEA.

**Frequency of response:** One-time reporting requirement.

**Total Number of Responses Annually:** 152 responses.

Two mobile handset operating systems (iOS and Android) x 76 participating CMS providers = 152

**Total Annual Burden:** 22,800 hours

152 responses per year x 150 hours per response = 22,800 hours per year.

The range of response burden will vary among respondents and may be considerably less than this estimate. A large nationwide wireless provider might need to work with vendors to develop software updates for over 100 deployed handset models that use one of the two most common mobile handset operating systems, while some providers might not need to update any models due to its deployed handsets being exempt older models that can no longer be updated via over-the-air software updates. We also anticipate that many models will not display the phrase “Presidential Alert” to the user and therefore will not need to be updated.

**Method of estimation of burden:** The burden estimate for this information collection is based solely on our estimate of 150 hours of software development time across all handsets that use one of the two most common mobile handset operating systems. In making our estimate, we have estimated that the costs associated with testing and deploying the software upgrades will be minimal because, similar to the Commission’s findings in previous WEA-related

proceedings, we expect that wireless providers will dovetail the testing and deployment of software upgrades with other scheduled upgrades in order to reduce costs. See NDAA21 Alerting Order at paragraph 19, footnote 79, we estimate the total hours to implement this one-time upgrade to be no more than 22,800 hours.

To estimate the hourly wage of full-time employees who will be responsible for implementing handset display updates, we use the 2021 Bureau of Labor Statistics' median pay for software developers of \$110,140 per year, which at 2,080 average hours worked is \$52.95 per hour. We add 50% of this wage, or \$26.48 for benefits, for a compensation estimate of \$79.43 per hour.

22,800 hours x average hourly rate of the persons responsible for handset updates (\$79.43) = \$1,811,004.

**Total Annual In-house Costs to the Respondents: \$1,811,004.**

### **False Alert Reporting**

**Total Number of Respondents: 23,201** (50 states + 5 territorial governments + 573 Tribal governments + 3,143 counties + 19,429 municipalities + 1 FEMA = 23,200).

**Frequency of response:** On occasion reporting requirement..

**Total Number of Responses Annually:** 15.

**Total Annual Burden Hours:**

15 reports annually across all respondents x 1 hours/report = **15 hours.**

**Method of estimation of burden:** This time estimate is based on our experience with the infrequency of significant WEA false alerts, the Commission's guidelines in the NDAA21 Alerting Order discouraging reports for minor alerting inaccuracies such as small geographic area overshoots, and on our estimate of the actual time needed to collect information and submit a false alert report. In making our time estimate, we have taken into account that all reports are to be made electronically via email with basic information about the false alerting event that the reporting government entity chooses to provide.

To estimate the hourly wage of full-time employees who will be submitting reports, we use the 2022 salary table for GS 10 Step 5 in locality pay area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA, or \$77,313 per year, which at 2,080 average hours worked is \$37.17 per hour. We add 50% of this wage, or \$18.59 for benefits, for a compensation estimate of \$55.76 per hour.

Therefore, the in-house costs to the respondents are as follows:

$\$55.76 \times 15 \text{ reports/annually} \times 1 \text{ hours per report} = \$836.40.$

**Total Annual In-house Costs to Respondents: \$836.40.**

**Grand Totals:**

**Total Number of Respondents:  $76 + 23,201 = 23,277$  respondents**

**Total Annual Responses:  $152 + 15 = 167$  responses**

**Total Annual Burden Hours:  $22,800 + 15 = 22,815$  hours**

**Total Annual In-house to Respondents:  $\$1,811,004 + \$836.40 = \$1,811,840.40$**

13. Handset Display Update: There is no outside cost to the respondents. While the handset update rules require respondents to work with their manufacturing vendors to make appropriate software updates to existing and new handset models, we estimate that these changes are sufficiently minor to be considered routine business and therefore will not increase the costs of respondents' handset vendor contracts.

False Alert Reporting: There is no outside cost to the respondents. Government entity respondents may file reports by email, and no outside hiring or consulting is needed to draft or submit a report.

14. The handset display update contains no annualized costs to the Commission. The Commission does not expect to incur costs related to the false alert reports beyond the normal labor costs for staff.

15. This is a new information collection. The Commission is reporting program changes/increases to the total number of respondents of +23,277, the total annual responses of +167 and total annual burden hours of 22,815, due to the adoption of FCC 21-77. These figures will be added to OMB's Active Inventory.

16. The Commission has no plans to publish specific information about the handset display updates or false alert reporting.

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

18. There are no exceptions to the Certification Statement.

**B. Collections of Information Employment Statistical Methods:**

This information collection does not employ any statistical methods.