recordkeeping requirements, Sex discrimination.

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: December 1, 2015.

Gina McCarthy,

Administrator.

For the reasons set out in the preamble, the EPA proposes to amend title 40, chapter I of the Code of Federal Regulations as follows:

PART 7—NONDISCRIMINATION IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL ASSISTANCE FROM THE ENVIRONMENTAL PROTECTION AGENCY

■ 1. The Authority citation for part 7 continues to read as follows:

Authority: 42 U.S.C. 2000d to 200d–7 and 6101 *et seq.;* 29 U.S.C. 794; 33 U.S.C. 1251nt.

Subpart D—Requirements for Applicants and Recipients

§ 7.80 [Amended]

■ 2. Section 7.80 is amended by removing the parenthetical citation ''(Approved by the Office of Management and Budget under control number 2000–0006)'' following paragraph (c)(3).

■ 3. Section 7.85 is amended by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (f) and (g) as paragraphs (g) and (h) respectively, and adding a new paragraph (f); and

■ c. Removing the parenthetical citation ''(Approved by the Office of Management and Budget under control number 2000–0006)'' following the newly redesignated paragraph (h).

The revisions and additions read as follows:

§ 7.85 Recipients.

* * * * *

(b) *Additional compliance information.* If necessary, the OCR may require recipients to submit data and information specific to certain programs or activities to determine compliance or to investigate a complaint alleging discrimination in a program or activity receiving EPA assistance. Requests shall be limited to data and information which is relevant to determining compliance.

* * * * *

(f) *Compliance reports.* Each recipient shall keep such records and submit to the OCR timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the OCR may determine to be necessary to enable the OCR to ascertain whether the recipient has complied or is complying with this subpart. In general, recipients should have available for the Agency the racial composition of affected neighborhoods. In the case in which a primary recipient extends federal financial assistance to any other recipient or subcontracts with any other person or group, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this Subpart.

* * * * *

Subpart E—Agency Compliance Procedures

§ 7.110 [Amended]

■ 4. Section 7.110 paragraph (a), fourth sentence is amended by removing ''only when it has reason to believe that discrimination may be occurring in a program or activity which is the subject of the application''.

§ 7.115 Postaward compliance.

■ 5. Amend § 7.115 by revising paragraphs (a) and (c)(1) to read as follows:

(a) *Periodic review.* The OCR may periodically conduct compliance reviews of any recipient's programs or activities receiving EPA assistance, including the request of data and information, and may conduct on-site reviews.

* * * * *

(c) * * * (1) The OCR will notify the recipient in writing by certified mail, return receipt requested, of:

* * * * *

■ 6. Amend § 7.120 by revising the introductory text and paragraphs (c) and (d)(1)(i) to read as follows:

§ 7.120 Complaint investigations.

The OCR will make a prompt investigation whenever a complaint indicates a possible failure to comply.

* * * * *

(c) *Notification.* The OCR will notify the complainant and the recipient of the agency's receipt of the complaint.

(d) * * *

(1) * * * (i) After the acknowledgment, the OCR will promptly review the complaint for acceptance, rejection, or referral to the appropriate Federal agency.

* * * * *

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

■ 7. The Authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 8. In § 9.1, the table is amended by adding the heading titled ''Nondiscrimination in Programs or Activities Receiving EPA Assistance'' and entries 7.80, 7.85, 7.110, and 7.115 above the heading ''Protection of Human Subjects'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Nondiscrimination in Programs or Activities Receiving EPA Assistance	
7.80	2030–0020
7.85	2030–0020
7.110	2030–0020
7.115	2030–0020
* * * * *	

* * * * *

[FR Doc. 2015–31050 Filed 12–11–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 10 and 11

[PS Docket No. 15–91; FCC 15–154]

Improving Wireless Emergency Alerts and Community-Initiated Alerting

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes revisions to Wireless Emergency Alert (WEA) rules designed to improve the clarity of WEA messages, ensure that WEA alerts reach only those individuals to whom a WEA alert is relevant, and establish a WEA testing program that will improve the effectiveness of the system for public safety officials and the public. This document also seeks comment on issues necessary to ensure that WEA keeps pace with evolving technologies and thus empowers communities to initiate these life-saving alerts. By this action, the Commission

affords interested parties an opportunity to submit comments on these proposed rule changes. Through this action, the Commission hopes to empower state and local alert originators to participate more fully in WEA, and to enhance the utility of WEA as an alerting tool.

DATES: Comments are due on or before January 13, 2016 and reply comments are due on or before February 12, 2016. Written Paperwork Reduction Act (PRA) comments on the proposed information collection requirements contained herein must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before February 12, 2016.

ADDRESSES: You may submit comments, identified by PS Docket No. 15–91, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *nfraser@omb.eop.gov* or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–7452, or by email at *Lisa.Fowlkes@fcc.gov.* For additional information concerning the information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele, Office of Managing Director, Performance Evaluation and Records Management, 202–418–2991, or by email to *Nicole.Ongele@fcc.gov.* To view or obtain a copy of this information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA Web page: *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR as shown in the Supplementary Information section below (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in PS Docket No. 15–91, FCC 15–154, released on November 19, 2015. The document is available for download at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db1119/FCC-15-154A1.pdf.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed new and modified information collection requirements. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat 163 (1995). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by the PRA. Public and agency comments on the PRA proposed information collection requirements are due February 12, 2016. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1126.

Title: Testing and Logging Requirements for Wireless Emergency Alerts (WEA).

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities.

Number of Respondents and Responses: 146 Respondents; 1,752 responses.

Estimated Time per Response: 0.000694 hours (2.5 seconds).

Frequency of Response: Monthly and on occasion recordkeeping requirements and reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C.s 151, 154(i) and (o), 201, 303(r), 403 and 606 of the Communications Act of 1934, as amended, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act.

Total Annual Burden: 1.22 hours (rounded to 2 hours).

Total Annual Cost: No Cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission seeks comment on the extent to which alert logs should be made accessible to entities other than the Participating CMS Provider that generates the log, and on whether to treat test reports as presumptively confidential.

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (Notice). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for

comments on the Notice provided in Section IV of the Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

2. With this Notice, the Commission takes another step towards strengthening Wireless Emergency Alerts (WEA) by proposing revisions to the WEA rules to empower alert originators to participate more fully in WEA, and by enhancing the utility of WEA as an alerting tool. The Commission's proposals fall into three categories, improving WEA messaging, geo-targeting, and testing and proficiency training. With respect to WEA messaging, in this Notice, the Commission proposes to expand the maximum character length of WEA messages from 90 to a maximum of 360 characters; create a new class of WEA alerts for Emergency Government Information; and remove the prohibition on embedded references to allow the provision of phone numbers and URLs in WEA alerts. The Commission also seeks comment on technically feasible approaches to supplement WEA alerts with multimedia, and with the capability to offer alerts in languages other than English. With respect to geo-targeting the Commission proposes to require Participating Commercial Mobile Service (CMS) Providers to distribute WEA messages to a geographic area that more accurately matches the target area provided by the alert originator. With respect to WEA testing, the Commission proposes to establish requirements and procedures for state and local WEA testing, and on alert logging requirements for Participating CMS Provider Alert Gateways, and seeks comment on test reporting requirements based, in part, upon the data produced by this logging function. The Commission seeks comment on methods of increasing participation in WEA by both consumers and CMS Providers. The Commission proposes to amend the WEA rules to allow use of the emergency alerting attention signal for Public Service Announcements (PSAs) designed to raise public awareness about Wireless Emergency Alerts (WEA). The Commission seeks comment on whether it should begin to test the broadcast back-up to the C-interface. Finally, the Commission seeks comment on whether it should amend the Commission's WEA prioritization rules such that WEA alerts take priority over all mobile device functions except certain voice and data sessions.

3. This Notice represents another step towards achieving one of the Commission's highest priorities—''to ensure that all Americans have the capability to receive timely and accurate alerts, warnings and critical information regarding disasters and other emergencies.'' This Notice also is consistent with the Commission's obligation under Executive Order 13407 to ''adopt rules to ensure that communications systems have the capacity to transmit alerts and warnings to the public as part of the public alert and warning system,'' and the Commission's mandate under the Communications Act to promote the safety of life and property through the use of wire and radio communication. The Commission takes these steps as part of an overarching strategy to advance the nation's alerting capability, which includes both WEA and the Emergency Alert System (EAS), to keep pace with evolving technologies and to empower communities to initiate life-saving alerts.

B. Legal Basis

4. Authority for the actions proposed in the Notice may be found in sections 1, 4(i) and (o), 201, 303(r), 403, and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403, and 606, as well as sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

6. Nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA. In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,476 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

7. *Wireless Telecommunications Carriers (except Satellite).* As noted, the SBA has developed a small business size standard for small businesses in the category ''Wireless Telecommunications Carriers (except satellite).'' Under that SBA category, a business is small if it has 1,500 or fewer employees. Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. This category is the best fit to describe common-carrier paging providers and cellular radiotelephone services subject to the Commission's rules. For the category of Wireless Telecommunications Carriers (except Satellite), census data for 2007 shows that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1000 employees or more. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, the Commission estimates that the vast majority of wireless firms are small.

8. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved

small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D, E, and F Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

9. On January 26, 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

10. *Narrowband Personal Communications Service.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards.

11. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

12. *700 MHz Guard Band Licensees.* In 2000, in the 700 MHz Guard Band Order, the Commission adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

13. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses—''entrepreneur''—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. On July 26, 2005, the Commission completed an auction of 5 licenses in the Lower 700 MHz band (Auction No. 60). There were three winning bidders for five licenses. All three winning bidders claimed small business status.

14. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order.* An auction of 700 MHz licenses commenced January 24, 2008 and closed on March 18, 2008, which included, 176 Economic Area licenses in the A Block, 734 Cellular Market Area licenses in the B Block, and 176 EA licenses in the E Block. Twenty winning bidders, claiming small business status (those with attributable average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years) won 49 licenses. Thirty three winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) won 325 licenses.

15. *Upper 700 MHz Band Licenses.* In the *700 MHz Second Report and Order,* the Commission revised its rules regarding Upper 700 MHz licenses. On January 24, 2008, the Commission commenced Auction 73 in which several licenses in the Upper 700 MHz band were available for licensing: 12 Regional Economic Area Grouping

licenses in the C Block, and one nationwide license in the D Block. The auction concluded on March 18, 2008, with 3 winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) and winning five licenses.

16. *Advanced Wireless Services. AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)).* For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. For AWS–2 and AWS–3, although the Commission does not know for certain which entities are likely to apply for these frequencies, it notes that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but proposes to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

17. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

18. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

19. In addition, the SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,436 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, the Commission estimates that at least 2,336 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use the most current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: All such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2007, there were a total of 996 firms in this category that operated for the entire year. Of this total, 948 firms had annual receipts of under $10 million, and 48 firms had receipts of $10 million or more but less than $25 million. Thus, the majority of these firms can be considered small. In the Paging *Third Report and Order,* the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 365 carriers reported that they were engaged in the provision of paging and messaging services. Of those, the Commission estimates that 360 are small, under the SBA-approved small business size standard.

20. *Wireless Communications Service.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area

licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

21. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for firms in this category, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2010, there were a total of 810 establishments in this category that operated for the entire year. Of this total, 787 had employment of fewer than 500, and an additional 23 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

22. *Software Publishers.* Since 2007 these services have been defined within the broad economic census category of Custom Computer Programming Services; that category is defined as establishments primarily engaged in writing, modifying, testing, and supporting software to meet the needs of a particular customer. The SBA has developed a small business size standard for this category, which is annual gross receipts of $25 million or less. According to data from the 2007 U.S. Census, there were 41,571 establishments engaged in this business in 2007. Of these, 40,149 had annual gross receipts of less than $10,000,000. Another 1,422 establishments had gross receipts of $10,000,000 or more. Based on this data, the Commission concludes that the majority of the businesses engaged in this industry are small.

23. *NCE and Public Broadcast Stations.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public.'' The SBA has created a small business size standard for Television Broadcasting entities, which is: such firms having $13 million or less in annual receipts. According to Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States had revenues of $12 (twelve) million or less. The Commission notes, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

24. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the Commission's estimates of small businesses to which they apply may be over-inclusive to this extent. There are also 2,117 low power television stations (LPTV). Given the nature of this service, the Commission will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

25. The Commission has, under SBA regulations, estimated the number of licensed NCE television stations to be 380. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

26. This Notice proposes new or modified reporting or recordkeeping requirements. Any changes to the Part 10 WEA technical rules, including message and geo-targeting requirements, may result in modified reporting and recordkeeping requirements necessary to satisfy the statutory requirements of the WARN Act (1) that Commission receive notice of election by all CMS providers concerning whether they will participate in the WEA; (2) CMS providers electing not to transmit, in part or in whole, in the WEA 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; and (3) CMS providers electing not to transmit WEA 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. Although the Notice does not propose revising the existing election procedures, the Commission notes that the CSRIC IV recommends that the Commission modify the current election procedures and provide Participating CMS Providers an opportunity to revise previous WEA election to comply only with the WEA rules that existed at the time of their initial election, and not those adopted subsequently. Moreover, amending the Commission's rules to require Participating CMS Providers to log the receipt of alerts and report the results of State/Local WEA Tests to the Commission may result in increasing the reporting and recordkeeping costs and burdens approved under OMB Control No. 3060–1113, ICR Reference No. 201404–3060–021. Test reporting and alert logging requirements may require small businesses to contract with engineers in order to make modifications to Participating CMS Provider Alert Gateways and mobile devices.

27. Additionally, any changes to the existing WEA testing regime to require Participating CMS Providers to support State and Local testing will entail some form of recordkeeping that will be used by the Commission to satisfy the statutory requirement of the WARN Act that the Commission ''shall require by regulation technical testing for commercial mobile service providers

that elect to transmit emergency alerts and for the devices and equipment used by such providers for transmitting such alerts.'' Specifically, amending the Commission's rules to require Participating CMS Providers to participate in State/Local WEA testing as well as maintaining a log of RMT results and generating reports will require a modification to the cost and hours burdens approved by OMB under OMB Control Number 3060–1126, ICR Reference No. 201502–3060–020. The proposals set forth in the Notice are intended to advance the Commission's public safety mission and establish an effective WEA in a manner that imposes minimal regulatory burdens on affected entities.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

28. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

29. As noted in paragraph 1 above, this Notice initiates a rulemaking to update the rules governing the WEA system by which Participating CMS providers may elect to transmit emergency alerts to the public, a goal mandated by the WARN Act and consistent with the Commission's obligation to protect the lives and property of the public. Primarily, this Notice seeks comment on three general categories of proposed rule changes: messaging, geo-targeting and testing.

30. With regard to WEA messaging and geo-targeting, this Notice seeks comment on a number of options to minimize the economic impact on small entities. First, the Notice proposes to expand the maximum character length of WEA messages from 90 to 360 characters and also seeks comment on alternatives such as rendering 140 character WEA alerts. The Notice also seeks comment on the extent Participating CMS Providers can leverage existing technology and best practices to minimize costs. Additionally, the Notice seeks comment on whether existing software is capable of rendering 360-character WEA alerts. Further, the Notice seeks comment on developing an appropriate timeframe for Participating CMS Providers to begin rendering longer WEA alerts in order to mitigate costs.

31. Second, the Notice proposes to create a new class of WEA alerts for Emergency Government Information. In that connection, the Notice seeks comment on measures to mitigate costs, including the utility of providing alert originators training and guidelines to minimize burdens. Further, the Notice seeks comment on developing an appropriate timeframe for Participating CMS Providers to begin rendering Emergency Government Information alerts in order to mitigate costs.

32. Third, the Notice proposes to allow the provision of phone numbers and URLs in WEA alerts. The Notice seeks comment, in the alternative, on whether embedded references should be allowed only in AMBER Alerts. The Notice seeks comment on developing an appropriate timeframe for Participating CMS Providers to begin rendering embedded phone numbers and URLs in WEA alerts in order to mitigate costs. Additionally, the Notice seeks comment on leveraging existing technology to supplement WEA alerts with multimedia.

33. Fourth, the Notice proposes to require Participating CMS Providers to geo-target WEA messages more precisely. The Notice seeks comment on leveraging existing technology and best practices, including network-side enhancement already voluntarily undertaken by Participating CMS Providers, to more precisely geo-target WEA alerts. The Notice also seeks comment on alternatives such as allowing Participating CMS Providers to render geo-targeted WEA alerts to the area that approximates the alert target area. The Notice also seeks comment on the extent ''device-assisted'' geo-targeting solutions already exist and can be implemented to ''filter'' WEA alerts based on coordinates as well as the extent that third party developers might create applications to improve geo-targeting. Further, the Notice seeks comment on developing an appropriate timeframe for Participating CMS Providers to begin geo-targeting WEA alerts in order to mitigate costs.

34. With respect to WEA testing and proficiency training, this Notice proposes to establish requirements and procedures governing Participating CMS Provider support for state and local WEA testing, and seeks comment on alert logging requirements for Participating CMS Provider Alert Gateways and test reporting requirements based, in part, upon the data produced by this logging function. First, in order to minimize the costs associated with supporting state and local testing, the Notice seeks comment on (1) leveraging the existing RMT testing protocol and (2) the use of best practices and standards developed through a public/private partnership including geo-targeting tests to localized areas and providing an opportunity for volunteers to participate in WEA tests. Second, the Notice seeks comment on how to minimize the costs associated with testing reporting requirements for state and local tests, including leveraging existing logging functionality and best practices, as well as relying on an informal approach to reporting test results and the extent that third-party developers may automate the proposed test filing procedures. The Notice seeks comment on the appropriate timeframe within which Participating CMS Providers should comply with the proposed testing requirements.

35. In commenting on these questions, commenters are invited to propose steps that the Commission may take to minimize any significant economic impact on small entities. For example, the Notice seeks comment on whether the benefits of extending liability protection to these proposals sufficiently outweigh the costs to Participating CMS Providers for participating in WEA. The Notice also seeks comment on the feasibility of its messaging, geo-targeting and testing proposals as well as an appropriate transition period from the current technical and testing requirements to the proposed rule changes contained in the Notice. When considering proposals made by other parties, commenters are invited to propose significant alternatives that serve the goals of these proposals.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

36. None

Synopsis of the Notice of Proposed Rulemaking

II. Notice of Proposed Rulemaking

A. WEA Messaging

1. Increasing Maximum WEA Character Length

1. Under the Commission's rules, WEA messages are currently limited to a maximum length of 90 characters. In the *First Report and Order* the Commission concluded that adopting a 90-character text message protocol

would serve the public interest because it would allow Participating CMS Providers to transmit WEA messages without requiring technical changes to their underlying infrastructure, and because 90-character messages were considered to be of sufficient length to get the consumer's attention, so they could then seek out other media for confirmation of the alert and for further information. Importantly, the Commission envisioned that Participating CMS Providers would eventually deploy technologies capable of messages longer than 90 characters.

2. In its recent report CSRIC IV finds that the majority of commercial mobile wireless networks and network technologies, such as GSM, UMTS, and LTE, can support messages with a larger number of characters. Moreover, CSRIC IV recommends that the Commission expand the character limit for WEA messages sent using 4G LTE-based infrastructure and devices to a maximum of 280 characters, pending confirmation by the Alliance for Telecommunications Industry Solutions (ATIS), and the Telecommunications Industry Association (TIA) (jointly, ATIS/TIA) that such an increase of the character length is feasible. CSRIC IV recommends that the necessary modifications to industry standards supporting the coexistence of 90- and 280-character alerts can be completed within one year of the issuance of an appropriate report and order. Subsequent to CSRIC IV's recommendations, ATIS/TIA released its *Feasibility Study for LTE WEA Message Length* in October 2015, and confirms that extending WEA message character length is feasible. The *Feasibility Study for LTE WEA Message Length* recommends a maximum WEA message length of 360 characters, where a minimum of 280 and a maximum of 372 characters can be included in two transmission segments. The study also notes, however, that additional WEA enhancements, such as improved geo-targeting and support for multimedia and multilingual alerts, may decrease their maximum recommended character length, pending further study.

3. Consistent with the CSRIC IV recommendations and the recent ATIS/TIA study, the Commission propose to amend section 10.430 of its rules to expand the maximum permissible length of WEA messages from 90 to 360 characters of alphanumeric text. Specifically, the Commission proposes to extend the character limit for those networks and devices for which it is technically feasible to deliver and process 360-character messages, as discussed in greater detail below, while continuing to allow the delivery of 90-character messages on 2G and 3G networks and devices. In this regard, the Commission seeks to balance the capabilities of 4G LTE networks with the limitations of legacy networks. The Commission seeks comment on this proposal, and the extent to which it would serve the needs of state and local governments to provide more detailed alert information to the public sufficient to motivate appropriate and swift action to save lives and protect property.

4. Expanding the maximum character length for WEA messages to 360 characters could address alert originators' concerns that they are unable to motivate the public to take appropriate protective action using messages limited to 90 characters. According to the National Center for Missing and Exploited Children (NCMEC), ''[i]t can be extremely difficult to fit sufficient descriptive information within a 90-character limit in a meaningful and understandable manner that doesn't confuse the public.'' The National Weather Service (NWS) states that increasing the maximum WEA message length ''would improve the ability of NWS and non-weather alerting authorities to convey critical life-saving information over WEA, such as spelling out key terms which are not abbreviated and may not be well understood.'' CSRIC IV and START concur that longer alert messages make it easier for the public to understand the nature of an emergency and the responsive action alert originators advise them to take. For example, according to the *START Report,* longer alert messages improve message interpretation, reduce ''milling'' by personalizing alert messages, and hasten a protective response. FEMA also strongly supports increasing the character length of WEA messages. The Commission seeks comment on whether expanding WEA messages to 360 characters would be likely to promote public understanding and swifter action in response to an emergency. The Commission also seeks comment on how an increase in the length of WEA messages would affect the accessibility of such messages by individuals with disabilities, senior citizens, and persons with limited English proficiency. The Commission seeks comment on how to quantify the potential life-saving benefits of increasing the maximum character length of WEA messages, as well as of the rules the Commission proposes today.

5. If the Commission expands the maximum character length for WEA messages, it seeks comment on whether 360 characters is the optimal maximum. The Commission seeks comment on the number of characters necessary to provide the public with sufficiently detailed information about the emergency situations that WEA is designed to address, and to encourage swift and effective public action in response to such emergencies. For example, the *START Report's* finding that longer alerts improve public response was based on 1,380 character messages. Is such a message length technically feasible? Would a 1,380 character message would better serve the public interest? The *START Report* also found that some alert originators expressed a preference for 140-character messages, based on their view that the public may be unlikely to read longer messages. In this regard, the Commission observes that the social media service Twitter uses messages limited to 140 characters in order to disseminate information about socially relevant phenomena, including emergency alerts and warnings. What can the Commission learn about the way that people use Twitter and other social media platforms that can inform the Commission's policymaking with respect to the length of WEA messages?

6. The Commission seeks comment on the technical feasibility of supporting WEA messages longer than 90 characters. As confirmed by ATIS/TIA, CSRIC IV states that 4G LTE networks and devices are capable of delivering 360-character alerts, and the Commission anticipate that future network iterations will continue to support messages with a maximum character length of at least 360 characters. The Commission observes that the nation's four largest CMS Providers have all but completed their transition to 4G technologies. In addition to the nation's largest CMS Providers, smaller Participating CMS Providers are also transitioning to 4G technologies; for example, more than 93 percent of U.S. Cellular's customers have access to 4G LTE, and Sprint and NetAmerica Alliance have partnered with the Competitive Carriers Association to accelerate smaller Participating CMS Providers deployment of 4G LTE across rural America. The Commission also seeks comment regarding how the incorporation of the additional WEA enhancements the Commission proposes below (such as support for multimedia and multilingual alerts) may affect the implementation of WEA messages with a maximum length of 360 displayable characters. For instance, would the metadata associated with the

inclusion of a URL compete with the maximum text limitation for WEA messages?

7. CSRIC IV concludes that the existing 90-character limit should remain for legacy networks and devices due to these networks' limitations and its expectation that the overwhelming majority of CMS Provider infrastructure and mobile devices will soon achieve 4G LTE capability. We seek comment on this view. The Commission seeks comment on whether the coexistence of 90- and 360-character alerts might cause public confusion. The Commission also seeks comment on the extent to which it would be feasible for alert originators and Participating CMS Providers to support the coexistence of both 90- and 360-character alerts.

8. CSRIC IV considered multiple approaches that would accommodate the existing base of legacy networks and mobile devices, while accounting for 4G technology's ability to deliver and receive longer messages. For example, one approach would be for the alert originator to ''create two WEA [a]lert [m]essages, the first adhering to the 90 displayable character maximum and the second to support the longer displayable character length.'' Alternatively, one WEA message could be generated, the first 90 characters could be delivered to legacy devices, ''and the full longer displayable characters [could be] delivered to future enhanced WEA LTE mobile devices.'' A third alternative would be the transmission of a longer message in four parts over legacy networks (and in a single message over 4G networks, where feasible). The Commission seeks comment on the feasibility of these alternatives and any other approaches for implementing an expanded WEA message. FEMA states that standards applicable to the Integrated Public Alert and Warning System (IPAWS) would need to be updated in order for IPAWS to accept longer messages, and that a software update would likely be necessary to enable alert origination software to initiate longer messages. NWS states that it could provide a longer WEA message in addition to the 90-character message, if necessary. Is commercially available alert origination software capable of automatically generating 90- and 360-character alerts from one message? Are there additional technological solutions, not considered by CSRIC IV, which would more effectively enable the transmission of longer alerts across all technologies, including legacy networks and devices? The Commission also seeks comment on the extent to which existing standards would need to be modified to accommodate the coexistence of 90- and 360-character maximum messages.

9. The Commission proposes that Participating CMS Providers should be required to come into compliance with its proposed WEA messaging rules within one year of the adoption of final rules. With respect to the Commission's proposal to allow the continued delivery of 90-character messages to legacy networks and devices, would it be preferable to adopt a date certain by which all Participating CMS Providers must be able to deliver 360-character WEA messages, rather than allowing the co-existence of 90- and 360-character WEA messages? If so, in what timeframe should the Commission sunset the 90-character WEA message length? Should the date of any sunset be contingent upon the satisfaction of a particular condition, such as the achievement of a particular milestone (*e.g.,* the completion of a 4G network deployment milestone or the completion of any necessary standards work by ATIS/TIA or other standards bodies)?

10. Finally, the Commission seeks comment on the costs associated with changing the maximum character length for WEA messages. To what extent can Participating CMS Providers leverage existing resources and infrastructure deployed for commercial purposes to satisfy the requirement the Commission proposes today? What additional network resources, if any, are necessary to comply with the Commission's proposed rule? If the delivery of expanded WEA messages can be accomplished through a software upgrade, would such upgrades fall within the scope of Participating CMS Providers' fixed-maintenance contracts, thus resulting in a cost of near zero? The Commission also seeks comment on mitigating factors that could offset potential costs, including those for small and rural Participating CMS Providers. The Commission seeks comment on any burden associated with allowing Participating CMS Providers to continue delivering shorter WEA messages using legacy devices and networks, while simultaneously delivering the expanded WEA messages on their 4G networks. The Commission also seeks comment on the costs and benefits of any potential alternative approaches. Specifically, the Commission seeks comment on the extent of cost savings expected to result from expanding the maximum character length to 360, as opposed to requiring that longer messages be issued as sequential 90-character alerts.

2. Classifying Emergency Government Information

11. The WEA rules currently provide for three classifications of WEA message: Presidential Alerts, Imminent Threat Alerts, and AMBER Alerts. For an alert to be issued through WEA, it must fall within one of these three categories. In the *First Report and Order,* the Commission adopted these three categories in the public interest because they aligned with the Commission's interpretation of ''emergency'' alerts under the WARN Act, and because additional alert categories could cause the public to disregard WEA alerts or cause the delivery of alerts to be delayed. In this regard, the Commission's conclusion was consistent with the CMSAAC's finding that supporting these three alert classes achieves the best balance between warning of imminent threats to life and property and the limitations of Participating CMS Provider networks at that time. However, FEMA suggests that communities need the ability to share information beyond the nature of an emergency and how to respond to that emergency; they need the ability to provide additional instructions and information that may contribute to saving lives.

12. The Commission proposes to amend the WEA rules to create an additional class of WEA message, ''Emergency Government Information.'' The Commission proposes to define an Emergency Government Information message as an essential public safety advisory that prescribes one or more actions likely to save lives and/or safeguard property during an emergency. According to CSRIC IV, examples of Emergency Government Information messages include ''boil water'' advisories, and messages indicating shelter locations in the event of long-term or severe flooding, hurricanes, or tornados. The Commission seeks comment on its proposed definition of Emergency Government Information, and on whether enabling the delivery of Emergency Government Information messages would expand the alerting toolkit available to government entities in a meaningful way, complementing existing WEA classes and allowing the provision of more detailed information about how to protect life and property.

13. The Commission seeks comment on how it can ensure that Emergency Government Information messages are used appropriately and in circumstances where they would be most effective at precipitating protective action. According to CSRIC IV, ''[a]n

Emergency Government Information message should only be used to provide information to assist citizens regarding actions to take resulting from an imminent threat to life and property.'' Would Emergency Government Information be most effective if defined as a standalone message, the issuance of which is predicated upon the fulfillment of certain necessary conditions? Or, on the other hand, should Emergency Government Information messages be used only to supplement Imminent Threat Alerts? What guidelines and parameters would ensure that Emergency Government Information messages are used in an appropriate manner? CSRIC IV recommends that only ''appropriate agencies'' become authorized to issue Emergency Government Information messages. The Commission seeks comment on whether it should adopt that approach. If the Commission does, are there particular entities which would be particularly appropriate sources of Emergency Government Information?

14. The Commission seeks comment on the benefits and costs of creating this additional class of WEA alert. Would such messages help to save lives and protect property? What costs, if any, would be imposed on Participating CMS Providers, alert originators, and consumers? Are there any measures that could be taken to mitigate these costs? Is alert origination software currently capable of issuing Emergency Government Information messages using predefined CAP fields and free-form text, or would a software update be required? Would creating an additional category of alerts desensitize the public to other types of alerts? The Commission believes that Participating CMS Providers could use the same hardware to deliver an Emergency Government Information WEA message as they would to deliver another classification of WEA message and seek comment on this view.

15. As required by the WARN Act, the Commission proposes to amend Section 10.280 of the Commission's rules to allow Participating CMS Providers to enable consumers to opt out of receiving Emergency Government Information messages. CSRIC IV recommends that subscribers should be allowed to opt out of receiving Emergency Government Information, and states that this option need not imply a new device setting, but rather, should be combined with existing settings on the device. The CSRIC IV's report states that the subscriber opt-out capability recommended to be offered for Emergency Government Information would need to be ''defined and specified in the Joint ATIS/TIA mobile Device Behavior Specification'' in order to ensure that the option to opt out is provided consistently and uniformly across devices, operating systems and software versions. Is this the case? What, if any, other standards or specifications would need to be modified in order to support the provision of Emergency Government Information? Alternatively, would it be preferable for Emergency Government Information to be presented to consumers on an opt-in basis? Would providing such an opt-in option be consistent with the WARN Act?

16. The Commission also seeks comment on whether there are other classes of alerts that should be added to WEA. FEMA, for example, asserts that the Commission should revisit the manner in which WEA messages are classified, and recommends that the Commission amend the Commission's rules to create the following classes: Federal Alerts (authorized by the President), AMBER Alerts, Severe Weather Alerts, and Local Threat Alerts, each of which would have its own unique attention signal and vibration cadence. As recommended by FEMA, Local Threat Alerts are alerts that may not meet each of the criteria for an imminent threat alert (certainty, urgency and immediacy) but nonetheless may be appropriate for a WEA alert. The Commission seeks comment on this approach. Are additional alert types, such as those currently offered by private mass notifications systems on an opt-in basis, appropriate for WEA? Such additional alert notifications would include weather-related closings, severe traffic incidents, and road closures due to special events. Would such additional classifications help adequately capture the variety of events that merit an alert or warning, and help provide clear instructions to alert originators on the kinds of events where use of the WEA system is appropriate? In addition, could additional alert types provide consumers with a more nuanced range of opt-out choices, in terms of the types of alerts they choose to receive, that could encourage consumer participation in WEA? Parties suggesting additional classes should explain how their proposed classes substantively differ from any of the current classes, or the proposed Emergency Government Information class, and the benefits of their proposed class, including why an additional or alternative alert classification is necessary to help save lives and protect property.

3. Content in WEA Alerts

17. The WEA rules currently prohibit the inclusion of embedded references, including telephone numbers and URLs, in all WEA messages except the Presidential Alert. In the *First Report and Order,* the Commission found that allowing URLs or telephone numbers to be included in WEA messages could exacerbate wireless network congestion in the wake of an emergency when wireless networks are already burdened by calls for help from police, fire, and rescue personnel, as well as to family and friends. In this regard, the Commission's conclusion was consistent with the CMSAAC's recommendation that including telephone numbers and URLs in WEA messages would encourage mass usage and potential congestion of wireless networks.

18. The WEA rules currently provide minimum standards for text-based alerts only. The Commission did not adopt technical requirements for WEA alerts with multimedia capability in the *First Report and Order* because, at that time, the Commission believed ''it would be premature and not consistent with our obligations under section 602(a) of the WARN Act to adopt standards and requirements for technologies that are still under development.'' In this regard, the Commission's conclusion was consistent with the CMSAAC's recommendation that support for text should be the minimum requirement for Participating CMS Providers.

19. Given the advancement of time and technology since the adoption of the WEA rules, the Commission believes that it would serve the public interest to reconsider the prohibition on the inclusion of telephone numbers and URLs in WEA messages. The Commission propose to remove Section 10.440 from its Part 10 WEA rules, in order to allow embedded phone numbers and URLs to be included in WEA messages. In doing so, the Commission seeks to ensure that Americans may be provided with an immediately accessible method of contacting public safety officials or finding additional information about emergency situations by leveraging the existing capabilities of Participating CMS Provider networks and devices. The Commission believes this approach furthers its goal of using the system to advance public safety. The Commission seeks comment on this proposal and on the Commission's rationale.

20. The Commission believes that allowing embedded references in WEA messages will improve alert quality and accessibility by offering additional,

specific information, and could reduce the risk of network congestion by focusing consumer response, thereby minimizing ''milling'' behavior. The Commission seeks comment on this analysis. To what extent do individuals currently respond to the receipt of a WEA message by using the Internet to confirm the existence of the emergency condition in their area or to search for additional information? Could a synchronized push of link content to device cache reduce non-alert congestion? CSRIC IV, START and FEMA agree that ''consideration should be given to including a URL'' in WEA messages, but recommend further study on whether the inclusion of URLs in WEA messages could cause network congestion when many people access a link within seconds of alert receipt. The Commission seek comment on whether such further studies would be helpful, given existing network management technologies that could be deployed to mitigate any potential alert congestion.

21. The Commission believes the potential benefits of allowing embedded phone numbers and URLs in WEA messages may be particularly applicable where AMBER Alerts are concerned. NCMEC states that the ability to provide a URL directing recipients to a Web site specifically used for AMBER Alerts would be the most important possible enhancement to WEA that the Commission can require at this time. FEMA recommends that a phone number be included in AMBER Alerts, noting that the ATIS/TIA specification for the interface between IPAWS and participating wireless carrier gateways already contains provisions for including a phone number. Every type of missing child advisory issued by NCMEC (*e.g.,* bulletin, notice or poster) includes a phone number to contact with potentially helpful information, except WEA AMBER Alerts. According to the Boston Globe, ''[i]n cases in which an abducted child is murdered, 75% of the killings happen within the first three hours.'' The Commission believes that providing WEA AMBER Alert recipients with URLs linking to images of missing children, their suspected abductors, and potentially the abduction vehicle could make it easier for the public to assist alert originators in locating missing children, and that providing a phone number to call could hasten the provision of such information during a critical period when every second may count. The Commission seeks comment on this analysis, and on other potential benefits of allowing alert originators to include embedded references in AMBER Alerts and in WEA messages more generally.

22. The Commission seeks comment regarding the potential costs that may be associated with incorporating embedded references in WEA messages, including any costs associated with the potential for increased call volume or network congestion. If alerts were more narrowly geo-targeted, would these potential burdens be mitigated? What network management techniques could be deployed to counter any potential network congestion? The Commission also seeks comment on any technical considerations that the Commission should take into account with regard to Participating CMS Providers' ability to support embedded references in WEA messages. According to CSRIC IV, adding URLs to WEA messages would necessitate the revision of standards for displaying content generated by the URL. The Commission seeks comment on CSRIC IV's assertion. What technical challenges would need to be addressed to support the synchronized push of content to be stored in cache for all URL links used in WEA CAP messages? Would it be possible to include interactive links in WEA messages, such that an alert recipient could provide real-time feedback to alert originators that would improve emergency responders' situational awareness and help ensure that adequate and appropriate resources are deployed to the scene of the emergency? For example, a WEA message warning about a developing fire in a multi-story building could ask alert recipients whether they see smoke by responding ''yes'' or ''no,'' helping emergency responders make decisions about building ventilation that could help to prevent the fire from further spreading. The Commission observes that the *CMSAAC Report* recommended guidelines for translating embedded references from CAP into a format suitable for communication with mobile devices. The Commission also observes, however, that a data connection may be required in order to access content made available through URLs, and that appropriate protocols and cybersecurity protections may need to be developed in order to protect these functions from malicious intrusion. How should these concerns be addressed? Finally, the Commission seeks comment on how much, if any, additional data would be necessary to transmit embedded references, along with text, in WEA messages, and on the impact, if any, that transmitting this additional data would have on message delivery latency and mobile device battery life. The Commission also seeks comment on the extent of any end-to-end latency in the delivery of WEA messages today, and whether there are ways to employ new technologies to reduce latency for WEA's current functionalities. The Commission seeks comment on these and other technical issues that could affect the implementation of this proposal. The Commission observes that AT&T suggests that the use of phone numbers and URLs in WEA alerts should be limited to WEA AMBER Alerts. The Commission seeks comment on this alternative.

23. The Commission also seeks comment on the efficacy of using embedded URLs to enhance accessibility of WEA for people with disabilities, senior citizens and persons with limited English proficiency, in addition to the general public. Wireless RERC conducted field trials and focus groups regarding disability access to WEA messages and found that users with sensory disabilities prefer to have access to additional information beyond that supplied by the 90-character alert via URLs. The Commission seeks comment on this conclusion, and on how the inclusion of URLs and phone numbers may facilitate access to information. For example, could a URL provide non-English speakers with access to emergency information in their preferred language?

24. Finally, the Commission seeks comment on whether it would serve the public interest to adopt rules governing the provision of multimedia-based alerts, including alerts that contain high-information maps that demonstrate the location of the alert recipient relative to an area affected by an imminent threat, and images of children, suspected abductors and vehicles in AMBER Alerts. The Commission believes that providing multimedia-based alerts could significantly enhance the usefulness of the system, thereby advancing public safety goals. For example, NWS strongly supports the incorporation of graphical content in WEA messages, stating that this improvement would provide greater clarity in WEA messaging. The Commission recognizes that CSRIC IV concludes that it is impractical for current cell broadcast technology, including 4G LTE, to support sending multimedia, such as images and maps, as part of WEA messages without ''significant impacts'' to Participating CMS Provider infrastructure. However, the Commission observes that mobile alerting technology vendors and Participating CMS Providers agree that other technologies may be able to support multimedia functionality. How

much additional data would be associated with the transmission of multimedia content in WEA messages, and what impact, if any, would transmitting this additional data have on message delivery latency and mobile device battery life? The Commission seeks comment on these issues, as well as any technical solutions that may serve to enhance the usefulness of WEA alerts for the general public.

4. Providing Multilingual WEA Messages

25. The WARN Act allows Participating CMS Providers to transmit alerts in languages other than English, if technically feasible. The Commission determined in the *First Report and Order* that it was not technically feasible for CMS Providers to deliver commercial mobile alerts in languages in addition to English and that further study was necessary to ensure that system capacity and message latency were not adversely affected. The Commission's conclusion in this regard is consistent with the CMSAAC's observation that rendering multilingual alerts would require additional character sets that would limit the amount of text that could be transmitted in WEA messages and that more precise geo-targeting increases the number of non-English languages that will be encountered. Accordingly, the Commission found it premature to require that Participating CMS Providers transmit alerts in languages other than English, but encouraged WEA stakeholders to develop multilingual alerting capabilities.

26. The Commission seeks comment on whether the fundamental technical problems that limited the ability of Participating CMS Providers in 2008 to provide alerts in languages other than English remain barriers to implementing Congress' vision. To the extent these problems remain, are they device-based, network-based, or both? FEMA recommends that WEA should be enhanced to support delivery of alert messages in languages other than English if the alert is made available by the originator in other languages. FEMA observes that ''[t]he IPAWS system as currently deployed and based upon the Common Alerting Protocol standards is capable of supporting multiple languages beyond English if the originator of the alert message provides the alert in additional languages.'' Alert originators state that they want to ''[u]se language in the WEA Alert Message that best conveys who is at risk given message length constraints.'' That could reasonably include a language, other than English, that best serves a particular community. Accordingly, the Commission seeks comment on the benefits of supporting multilingual WEA alerts in order to advance the Commission's goals for promoting community participation.

27. In raising the issue of multilingual alerts, the Commission notes that the Multicultural Media, Telecom and Internet Council (MMTC) has highlighted the importance of providing information about emergencies in languages other than English on numerous occasions. The Commission agrees with MMTC that all Americans, regardless of the language they speak, should have access to emergency information. In this *Notice,* the Commission seeks comment on the technical implications and potential costs of supporting multilingual WEA alerts. The Commission also seeks comment on the impact of requiring WEA alerts in languages other than English on the ability of Participating CMS Providers to comply with the rules the Commission propose today. For example, the Commission seeks comment on whether Participating CMS Provider networks continue to experience technical limitations that restrict their ability to offer WEA alerts in languages other than English. How much additional data, if any, would be necessary to support additional languages and/or character sets in WEA messages, and how would the transmission of this additional data affect mobile device battery life and message delivery latency? The Commission seeks comment on whether there are other factors that should be considered in determining whether to support multilingual alerts, and on how states and local alert originators can best determine which languages are appropriate for their communities.

B. WEA Geo-Targeting

28. In the *First Report and Order,* the Commission adopted a geo-targeting requirement for WEA messages in order to ensure that WEA messages would only be received by those individuals affected by a specific emergency. Under Section 10.450 of the WEA rules, Participating CMS Providers may not transmit WEA messages to areas greater than the county (or county equivalent) that approximates the geocode, circle, or polygon specified by the WEA alert. The Commission anticipated that as more refined and cost effective geo-targeting capabilities became available to Participating CMS Providers they would voluntarily elect to target alerts more granularly. Similarly, the CMSAAC recommended county-based geo-targeting, but acknowledged that it would be desirable to allow for ''more flexible geo-targeting to alert areas [to] evolve as technology advances,'' and recommended that the geo-targeting to alert areas smaller than a county ''should be reviewed as part of the biennial review process.''

29. Since the Commission adopted its WEA geo-targeting rules in 2008, there has been considerable interest among alert originators in developing more finely targeted WEA messages. Additionally, research scientists at Carnegie Mellon have developed several polygon compression techniques that enable efficient transmission of polygons representing geographical targets. These techniques are intended to enable compressed polygon vertices to be embedded in emergency alert messages that have strict length restrictions, such as WEA messages.

30. Further, CSRIC IV and START observe that the effectiveness of WEA alert messages may remain suppressed until they can be distributed to finer geospatial areas, so that messages only reach the people who are at risk. ''[O]therwise, people who receive WEA Alert Messages may be trained to think they don't apply to them.'' As CSRIC IV notes, some Participating CMS Providers have made voluntary enhancements to geo-targeting that exceed the Commission's current county-level geo-targeting rules. The enhancements include using an algorithm to geo-target the WEA broadcast to transmission sites capable of best approximating the polygon-based alert area provided by the alert originator, and, in LTE networks, using cell sectorization, a technique whereby a WEA alert is broadcast to only certain sectors within a transmission site. CSRIC IV thus recommends that the Commission amend Section 10.450 of its WEA rules to state ''that a Participating CMS Provider may voluntarily transmit any Alert Message that is specified by the Alert Originator using a geocode, circle, or polygon, to an area that best approximates the geocode, circle, or polygon given the constraints of CMS Provider infrastructure topology, propagation area, and other radio and network characteristics.'' CSRIC IV further recommends that, at a minimum, the Commission should adopt a geo-targeting standard constituting an area no larger than the coverage area of a single transmission site.

31. The Commission proposes to revise the Commission's rules to require that Participating CMS Providers must transmit any alert message that is specified by a geocode, circle, or polygon to a target area not larger than

the specified geocode, circle, or polygon. If, however, the Participating CMS Provider cannot broadcast the alert to an area that accurately matches the target area, the Commission proposes that a Participating CMS Provider may transmit an Alert Message to an area that closely approximates the target area, but in any case not exceeding the propagation area of a single transmission site. In this regard, as a backstop, Participating CMS Providers would be permitted to geo-target WEA alerts with the same level of granularity currently allowed by the Commission's WEA rules. CSRIC IV recommends that CMS Providers be allowed to transmit alert messages, on a voluntary basis, to an area that best approximates the target area, ''given the constraints of Participating CMS Provider infrastructure topology, propagation area, and other radio and network characteristics.'' Would this approach weaken the Commission's current requirement that WEA alerts be geo-targeted to at least the county level, and would potentially allow Participating CMS Providers to geo-target alerts to any area, so long as it could be justified by reference to network constraints. The Commission seeks comment on the Commission's proposal and on this rationale.

32. The Commission seeks comment on the technical feasibility of complying with these more granular geo-targeting proposals. Both the WARN Act and the Commission envisioned that WEA technology would evolve to encompass more precisely geo-targeted alerts. In light of the advances in network technology observed by CSRIC IV, specifically network-based solutions already deployed by Participating CMS Providers, is it technically feasible for Participating CMS Providers, utilizing currently available technology, to more accurately geo-target WEA alerts? The Commission specifically seeks comment on the state of network-based enhancements needed to implement this process. CSRIC IV states that ''the algorithms for mapping the intended alert area to the relevant cell sites/sectors in the CMSP network are considered proprietary and there is no standard method to perform this mapping.'' How can the Commission ensure that all Participating CMS Providers have access to any relevant techniques that are necessary to implement more granular geo-targeting?

33. Further, the Commission seeks comment on other approaches to improve geo-targeting, including device-based geo-targeting solutions. CSRIC IV recommends that ATIS/TIA conduct feasibility studies of the ability of Participating CMS Providers to more narrowly geo-target WEA using network-based, device-based, and third-party-assisted solutions. Network-based geo-targeting solutions include cell sectorization and algorithm-based transmission site selection. A device-based solution entails an alert originator transmitting geographic coordinates for the target area along with the WEA message, and an end-user device using the device's location-based technology to display only those WEA messages that are relevant to the geographic area in which the device is located. CSRIC IV recommends that ATIS/TIA evaluate the extent to which device-based solutions could be optimized by minimizing the amount of data necessary to transmit alert area coordinates, either by compressing the data, circularizing the polygon, or embedding the geographic data in the alert message itself. A third-party-assisted solution (*i.e.,* a service provided by a party other than the mobile device and the Participating CMS Provider) would utilize an external source of geo-location to determine whether the WEA message should be displayed, without relying on the device's own location services.

34. Could a device-based solution improve WEA geo-targeting without burdening Participating CMS Provider infrastructure? Could device-based solutions complement network-based solutions to facilitate the delivery of even more granular WEA messages? Would the provision of alert area coordinates in a WEA message potentially reduce the amount of data available for other message elements, such as text and multimedia, and if so, what measures could mitigate this possibility? Carnegie Mellon University has ''developed a technique which significantly reduces the amount of data required to convey the location, size, and shape of an NWS alert polygon,'' suggesting that only a small amount of data may be necessary to transmit alert coordinates to a mobile device. To what extent can the amount of data needed to transmit geographic coordinates be reduced through such optimization methods? Are such methods feasible or advisable? Are there other techniques for efficiently sending alert area coordinates to a device that should be examined? The Commission also seeks comment on whether the use of device-based solutions might implicate privacy issues and on the protective measures that might be necessary to implement before a device's location-based services are used for the provisioning of WEA alerts. Finally, the Commission seeks comment on the extent to which third-party developers are in the process of developing services to improve WEA geo-targeting.

35. The Commission seeks comment on the potential benefits that more accurate geo-targeting may provide. By proposing measures to ensure that WEA messages are more finely targeted and delivered only to recipients who are likely to be affected by the emergency event, the Commission intends to minimize over-alerting and reduce alert fatigue. Do alerts sent to too wide an area result in significant problems? Does or could inaccurate geo-targeting lead to alert fatigue, and, if so, would it cause many individuals to disregard or opt-out of receiving all but the Presidential message? CSRIC IV and START conclude that finer geo-spatial targeting is necessary to ensure WEA Alert Messages only reach those people at risk, and that the ''effectiveness of WEA Alert Messages may remain suppressed until they can be distributed to finer geospatial targeted populations so that messages only reach the people who are at risk.'' The Commission seeks comment on these findings and encourage commenters to offer statistical evidence of the anticipated benefits resulting from tightening the Commission's geo-targeting requirements. Further, the Commission seeks comment on whether improved geo-targeting technology will increase opportunities for wireless providers to offer beneficial services to the companies currently providing mass notification products to localities, employers, and school systems. Specifically, will improved geo-targeting capabilities expand opportunities for wireless carriers and other parties to contract for services outside of WEA that are beneficial to the alert-originating community? The Commission seeks comment on whether there are other potential public/private partnerships that could further leverage WEA capabilities and bring additional innovative alerting services to communities.

36. Finally, the Commission seeks comment on the potential costs that would result from implementing the more granular geo-targeting requirements the Commission propose today, including through the implementation of network-based, device-based, or third-party-assisted solutions. Would the cost of compliance with the Commission's proposed rules through the use of network-based enhancements likely be minimal because Participating CMS Providers are already engaging in such practices voluntarily? What costs would be entailed for Participating CMS Providers

that are not currently using geo-targeting best practices? Would the implementation of device-based improvements to geo-targeting likely entail a software update to mobile devices? If a software update would be needed, could it be bundled into software updates that Participating CMS Providers would issue for their mobile devices in the regular course of business? What costs might be associated with the delivery of such software updates? Lastly, what costs might be associated with the implementation of a third-party-assisted solution?

C. WEA Testing and Proficiency Training

37. Section 602(f) of the WARN Act provides that ''[t]he Commission shall require by regulation technical testing for commercial mobile radio service providers that elect to transmit emergency alerts and for devices and equipment used by such providers for transmitting alerts''. Under the current WEA rules, the Commission requires Participating CMS Providers to support Required Monthly Testing (RMT) initiated by FEMA, and testing of the C-Interface. The Commission adopted these testing requirements in the *Second Report and Order* to satisfy the WARN Act's testing requirement in a manner that would ensure the reliability and performance of the new WEA system and the availability and viability of both of its gateway functions. The Commission further noted that the CMSAAC proposed that, in order to ensure the reliability and performance of this new system, certain procedures for logging alerts at the Alert Gateway and for testing the system at the Alert Gateway and on an end-to-end basis should be implemented. Since the deployment of WEA in 2012, the system has grown, technology has changed, and new community-based alert initiators have begun to use WEA to address the safety needs of their communities. In the course of analyzing the Commission's proposals below, commenters should address whether the proposal is consistent with the Commission's statutory authority under the WARN Act or the Communications Act.

1. Promoting State and Local Testing and Proficiency Training

38. GAO and alert originators have raised concerns about the lack of a state/local WEA testing regime. In response, the Commission tasked CSRIC IV with making recommendations on how the Commission could address these concerns. In its report, CSRIC IV observes that, according to state and local alert originators, training and proficiency-building exercises constitute a ''fundamental component'' of emergency management programs. Additionally, according to CSRIC IV, WEA testing would provide state and local alert originators with opportunities to evaluate their preparedness for responding to life-threatening events, to ensure the software used to generate and the infrastructure used to disseminate WEA messages are operating correctly, and to test for downstream issues.

39. *Readiness Testing.* CSRIC IV considered three potential models for WEA testing: (1) Allowing alert originators to utilize the current RMT process; (2) allowing alert originators to conduct WEA tests that could be received by wireless customers that opt in to receive alerts; and (3) allowing alert originators to conduct WEA tests that would be received by all wireless customers, unless they opt out of receiving the test. FEMA currently issues nationwide RMTs that are held up to 24 hours before they are delivered to (but not displayed on) WEA-enabled devices. CSRIC IV concluded that a localized test to opt-in participants' WEA-enabled devices would achieve alert originators' goals of providing system verification, as well as opportunities for alert originator proficiency training, and enhancing public awareness of the WEA service.

40. Pursuant to CSRIC IV's recommended opt-in testing model, an alert originator would submit its test message to FEMA/IPAWS, which would then send the test message to Participating CMS Providers that have coverage within the described alert area. Participating CMS Providers would then receive and process the test message, distributing it to devices configured to opt-in to receiving state and local WEA tests.

41. The Commission proposes to add a new section 10.350(c) to the WEA rules to require Participating CMS Providers to ensure their systems support the receipt of ''State/Local WEA Tests'' from the Federal Alert Gateway Administrator, and to distribute such tests to the desired test area in a manner consistent with section 10.450 of the rules. In order to allow State/Local WEA Tests to mirror an actual event, as recommended by the CSRIC, the Commission proposes that the 24-hour delivery window that currently applies to RMTs under section 10.350(a)(2) would not apply to State/Local WEA Tests conducted under proposed section 10.350(c). The Commission believes that the local, geographically focused nature of these tests would allow Participating CMS Providers to distribute the State/Local WEA Tests within their networks upon receipt in a manner consistent with necessary traffic load management and network maintenance. The Commission seeks comment on this analysis. In this regard, the Commission also seeks comment on whether there still remains a justification for the 24-hour window for RMTs. Does the 24-hour window allow for efficient testing that provides adequate data about any weaknesses in the system, including potential message delivery latencies? Do Participating CMS Providers still require a 24-hour window ''to manage traffic loads and to accommodate maintenance windows,'' as indicated by section 10.350(a)(2)? The Commission further proposes that section 10.350(c), consistent with section 10.350(a), should specify that a Participating CMS Provider may forgo accepting or delivering a State/Local WEA Test if the test message is preempted by actual alert traffic, or if an unforeseen condition in the Participating CMS Provider infrastructure precludes distribution of the State/Local WEA Test. In the event that a Participating CMS Provider cannot accept or deliver a test under these circumstances, the Commission proposes to require that Participating CMS Providers shall indicate such an unforeseen condition by sending a response code to the Federal Alert Gateway. Finally, the Commission proposes that Section 10.350(c) state that Participating CMS Providers may provide their subscribers with the option to opt-in to receiving State/Local WEA Tests. The Commission seeks comment on these proposals. The Commission also seeks comment on whether the Commission should require State/Local WEA Test messages to be clearly identified as test messages to prevent confusion.

42. The Commission seeks comment on whether any new or revised technical standards or processes would be necessary to facilitate state and local testing, and if so, whether such standards would be best developed through industry standards bodies or best practices. The Commission seek further comment on whether alert originators at the federal, state and local levels would be best positioned to coordinate with Participating CMS Providers and determine the proper method of outreach to testing participants. Accordingly, would the goal of promoting alert origination proficiency be best achieved by affording alert originators flexibility to develop a WEA testing model that best fits the needs of their individual

communities? Similarly, would industry organizations such as ATIS/TIA be best positioned to create the device and network specifications that may be necessary to support state and local WEA testing? The Commission seeks comment on whether any additional requirements would be necessary to realize the specific opt-in testing regime recommended by CSRIC IV. Should the Commission revise section 10.500 of the WEA rules, which specifies general requirements for WEA mobile device functionality (including monitoring for alert messages and presenting alert content) to include the ability to monitor for State/Local WEA Tests and to be able to receive and display State/Local WEA Test messages?

43. The Commission also seeks comment on the periodicity with which state and local alert originators would likely want to engage in readiness testing, and on the maximum readiness testing periodicity Participating CMS Providers are able to support. With what frequency should State/Local WEA Tests be conducted, in order to optimize and ensure system readiness, without introducing alert fatigue or otherwise imposing undue burdens on Participating CMS Providers?

44. The Commission seeks comment on the public safety benefits likely to result from requiring Participating CMS Providers to support State/Local WEA Testing. According to FEMA, a localized, opt-in, end-to-end approach to testing, as described above, offers the public safety benefits that alert originators state that they need. Specifically, FEMA asserts that requiring Participating CMS Provider support for local testing would improve WEA by (1) demonstrating to the public that their handsets are (or are not) capable of receiving a WEA message; (2) demonstrating WEA capability in coordinated public warning exercises and tests such as those required by the Nuclear Regulatory Commission for local emergency preparedness programs; and (3) providing the public with reassurance that local emergency management is capable of alerting them in times of disaster. The Commission seeks comment on FEMA's analysis.

45. Alternatively, would another approach to state and local WEA testing address alert originators' needs more efficiently? As mentioned above, CSRIC IV considered two alternatives to localized, end-to-end, opt-in WEA testing, including local testing on an opt-out basis, and using the current RMT process. The Commission seeks comment on these alternative testing regimes. While CSRIC IV concludes that opt-out testing would afford substantial benefits in terms of system verification, alert originator proficiency, and public awareness, it also finds that opt-out testing is unnecessarily broad, and that large-scale public response may unduly stress emergency call centers. The Commission seeks comment on CSRIC IV's analysis. With respect to utilizing the current RMT process, CSRIC IV finds that this testing model poses little to no network reliability risk for Participating CMS Providers, but also offers little, if any, benefit in the areas of system verification, alert originator proficiency and public awareness because the test alert would not be displayed on end-user devices. The Commission seek comment on CSRIC IV's findings.

46. The Commission also seeks comment on any potential costs that may be imposed by its proposed testing requirements. Because the proposed testing regime is largely based on the current RMT model, with test recipients likely comprised of a limited number of voluntary, opt-in participants, the Commission anticipates that the proposed testing regime would likely not lead to network congestion. The Commission seeks comment on this observation, as well as the extent to which Participating CMS Providers would incur costs, including costs related to the development of any technical standards or necessary modifications to end user devices. Are there any measures the Commission could take to minimize any attendant costs while still achieving the Commission's public safety goals?

47. *Liability Protection for State/Local WEA Testing.* Finally, CSRIC IV recommends that the Commission confirm that liability protection provided under the WARN Act extends to Participating CMS Providers for their engagement in State/Local WEA Testing. Based on the plain language of the WARN Act, the Commission believes that liability protection would reasonably extend to Participating CMS Provider engagement in State/Local WEA Testing as proposed in this Notice, provided that the Participating CMS Provider otherwise satisfies its obligations under the WARN Act and complies with the Commission's testing requirements. The Commission notes that section 602(f) provides that ''[t]he Commission shall require by regulation technical testing for commercial mobile radio service providers that elect to transmit emergency alerts and for devices and equipment used by such providers for transmitting alerts. Further, section 602(e)(1)(A) states that ''[a]ny commercial mobile service provider [. . .] that transmits emergency alerts and meets its obligations under this title shall not be liable to any subscriber, or user of, such person's service or equipment for—(A) any act or omission related to or any harm resulting from the transmission of, or failure to transmit, an emergency alert.'' The Commission seeks comment on its analysis.

48. *Proficiency Training.* The Commission observes that it may be helpful for state and local alert originators to send WEA test messages in the context of proficiency training exercises. The Commission envision that proficiency training exercises would help develop the preparedness of state and local emergency response, ensuring that emergency managers are able to respond swiftly and efficiently to emergencies through the use of WEA. The Commission seeks comment on whether it should provide alert originators with the option of delivering such proficiency training messages to a single, dedicated end-user device, such as the mobile device of an emergency management official, rather than to a larger set of wireless customers, in order to provide alert originators with an opportunity to develop alert originator proficiency through regular exercises without involving the general public. Further, in order to minimize any potential burden on Participating CMS Providers, the Commission propose that proficiency training exercises would not be subject to the same reporting requirements that the Commission discuss below. The Commission seeks comment on this proposal, and any other approaches the Commission could adopt that would achieve its public safety objectives.

2. Requiring Alert Logging and Test Reporting

49. Section 10.350 of the WEA rules requires Participating CMS Providers to keep an automated log of RMT messages received by the Participating CMS Provider Alert Gateway from the FEMA Alert Gateway. The Commission adopted this requirement in the *Second Report and Order* based on the CMSAAC's recommendation that alert logs should be kept and preserved as an integral part of the Trust Model for maintaining WEA system integrity, for protecting system security, and for testing and troubleshooting purposes. The Commission declined to adopt more specific test reporting requirements at that time because the WEA system was still in a nascent stage. According to CSRIC IV, there is no established procedure for Participating CMS Providers to inform alert originators or government entities of the

success or failure of WEA tests under the current WEA testing model (*i.e.,* RMT and C-Interface Testing), and thus no available method to analyze these results in the interest of public safety. The Commission seeks comment on CSRIC IV's conclusions.

50. The Commission proposes to require Participating CMS Provider Alert Gateways to provide the logging functionality recommended by the *CMSAAC Report.* Specifically, the Commission proposes to adopt a new section 10.320(g) that would require Participating CMS Provider Alert Gateways to:

- Provide a mechanism to log messages with time stamps that verify when messages are received, and when the messages are acknowledged or rejected by the Participating CMS Provider Alert Gateway, and if an alert is rejected, to provide the specific error code generated by the rejection;
- Maintain an online log of active and cancelled alert messages for 90 days, and maintain archived logs for at least 36 months that should be accessible by Participating CMS Providers for testing and troubleshooting purposes; and
- Generate monthly system and performance statistics reports based on category of alert, alert originator, alert area, and other alerting attributes.

The Commission observes that these logging requirements were recommended by the CMSAAC after extensive efforts to arrive at a consensus among CMS Providers, vendors, public safety entities, organizations representing broadcast stations, and organizations representing people with disabilities and the elderly. Are Participating CMS Provider Alert Gateways currently capable of performing the logging functions specified by the CMSAAC? If not, how difficult would it be to add this functionality? Would alert logging allow Participating CMS Providers to monitor whether the WEA system is working as intended? In order to develop a full view of how the WEA system is working, from alert initiation all the way through to receipt of the message by the mobile device, should CMS Providers also log when the alert is received by a representative, dedicated, end-user device (such as a mobile device controlled by and in the possession of the Participating CMS Provider)? Aside from the Commission, should alert logs be accessible only by Participating CMS Providers? The Commission seeks comment on whether other federal or state governmental entities, such as FEMA, may have a legitimate need for access to alert logs. The Commission seeks comment any confidentiality protections that would be required to protect Participating CMS Provider alert logs. The CMSAAC described message logging as part of the Trust Model necessary to ensure WEA system security and reliability because it allows all WEA messages to be attributed reliably to an individual, sender, and to identify when the sender is not properly credentialed. The Commission also seeks comment on whether implementing these CMSAAC-recommended procedures, along with the test reporting requirements described below, would be beneficial in harmonizing the Commission's proposed WEA test reporting and logging procedures with the Commission's EAS rules.

51. The Commission notes that CSRIC IV recommends that industry and government stakeholders ''develop a best practices ATIS/TIA standard for defining and reporting on significant problems.'' The Commission seeks comment on CSRIC IV's recommendation. Should the Commission formalize a reporting process for alert originators? If the Commission does formalize a test reporting procedure, what form should that reporting take, and what specific information should be reported? The Commission also seeks comment on the extent to which reporting procedures could provide alert originators with useful feedback on alert delivery latency, accuracy of geo-targeting, and quality of public response that otherwise would be unavailable. Could feedback on the quality of public response be leveraged to improve alert originators' alert origination proficiency? The Commission seeks comment on the extent to which reported data would be useful to empower alert originators with the ability to ensure the WEA system will work as designed and when needed. What, if any, characteristics of alert dissemination, beyond geo-targeting and latency, would state and local alert originators seek to evaluate through State/Local WEA Testing and thus require reports on? How can a test reporting system be optimized to protect potentially confidential information?

52. Should the Commission also require Participating CMS Providers to report WEA test data? The Commission notes that the Commission has required that EAS Participants file nationwide EAS test result data with the Commission on a confidential basis through an Electronic Test Reporting System (ETRS). Should the Commission require Participating CMS Providers to use this system as a model for the reporting of WEA test data to the Commission? If the Commission were to require reporting of WEA test data, the Commission seeks comment regarding the frequency with which such reporting should take place. For example, should Participating CMS Providers file test data on an annual basis, based on test data collected from the RMT process? The Commission also seeks comment regarding the elements of the test data that should be provided in any such report. For example, should the report include data regarding the time of the receipt of the alert from the FEMA Alert Gateway, and the time of alert transmission? Should Participating CMS Providers include data regarding when an alert is received by a representative mobile device, as discussed above with respect to logging requirements? The Commission also seeks comment on whether such information should be considered presumptively confidential, to be shared with federal, state and local alert originators that have confidentiality protection at least equal to that provided by the Freedom of Information Act (FOIA), consistent with the Commission's data-protection practices in the EAS context. Alternatively, are there differences in the type of data that the Commission might collect from CMS Providers versus EAS Participants that would suggest WEA test data should be treated differently? Should access to WEA test data be limited, and if so, to whom? The Commission seeks comment on the optimal method of filing test result data with the Commission in a manner that fulfills the primary goal of WEA testing to provide alert originators with verification that the system works as designed, and provides the Commission with an opportunity to analyze the performance of the WEA system in order to bring to light any potential weaknesses in the WEA system that the Commission may be able to address through rulemaking, public-private partnerships, or both.

53. The Commission also seeks comment on three alternative test reporting mechanisms: Third-party software using Application Programming Interfaces (APIs), informal communication among alert originators, and use of the Public Safety Help Center. The Commission anticipates that these alternatives could minimize the filing burden on Participating CMS Providers, but could also present significant drawbacks. First, the Commission seeks comment on whether Participating CMS Providers could allow third-party application developers to create software and APIs to satisfy their test reporting requirements. Could

third-party software be designed to automate the process of filing test result data with the Commission by sending such data from the consumer's mobile device directly to a Commission-operated server or account using a the cell broadcast network, a data connection, or WiFi? Second, the Commission seeks comment on whether it would be preferable to leave test reporting to person-to-person interaction without the adoption of formal rules. Could the goals of test reporting be achieved through informal communication between alert originators and their associates? Finally, the Commission seeks comment on the use of the Public Safety Answering Point (PSAP) section of the Public Safety Help Center to satisfy the need for feedback on State/Local WEA Tests. Would a consumer-complaint based reporting mechanism adequately capture shortcomings in State/Local WEA Tests?

54. The Commission also seeks comment on the potential costs that Participating CMS Providers would be likely to incur if the Commission were to adopt rules for alert logging and test reporting. What costs, if any, would logging alerts at the Participating CMS Provider Alert Gateway cause Participating CMS Providers to incur? What costs would reporting test data to the Commission impose? How could the Commission optimize the WEA test reporting process to minimize the filing burden on Participating CMS Providers, and to protect confidential information? How, if at all, could a best-practice-based test reporting system be leveraged to provide comparable benefits at a lower cost?

D. Participating CMS Providers and Subscribers

55. The Commission seeks comment on whether there are additional measures the Commission can take to promote participation in WEA, both by consumers and by CMS Providers. Section 602(b)(2)(E) of the WARN Act provides that ''any commercial mobile service licensee electing to transmit emergency alerts may offer subscribers the capability of preventing the subscriber's device from receiving such alerts, or classes of such alerts, other than an alert issued by the President.'' In the *Third Report and Order,* the Commission addressed this section of the WARN Act by adopting section 10.280 of the WEA rules, which states that Participating CMS Providers ''may provide their subscribers with the option to opt out of both, or either, the 'Child Abduction Emergency/AMBER Alert' and 'Imminent Threat Alert' classes of Alert Messages,'' and that Participating CMS Providers ''shall provide their subscribers with a clear indication of what each option means, and provide examples of the types of messages the customer may not receive as a result of opting out.'' The Commission also allowed Participating CMS Providers the flexibility to provide opt-out choices consistent with their own infrastructure in order to accommodate variations among Participating CMS Provider networks and devices. The Commission reasoned that this approach would allow consumers the flexibility to choose what type of messages they wish to receive, while also ensuring that customers would be apprised of the most severe threats as communicated by Presidential Alert messages. Further, the Commission reasoned that this approach would accommodate ''differences in how CMS providers and device manufacturers provision menus and user interfaces.'' The Commission's approach was consistent with the CMSAAC recommendation that a simple opt-out program should allow consumers the choice to opt out of Imminent Threat Alerts and AMBER Alerts.

56. Section 602(b)(2)(E) of the WARN Act required the Commission to send a report to Congress making recommendations on whether Participating CMS Providers should continue to be permitted to offer their subscribers the ability to opt out of receiving Imminent Threat and AMBER Alerts. As required by the WARN Act, the Commission filed the report on August 5, 2010, but initial deployment of WEA was not scheduled until April 2012. Accordingly, although the Commission adopted opt-out rules in 2008, at the time the Commission submitted its report to Congress there was no WEA service from which customers could opt-out, so the Commission made no recommendations regarding subscriber opt-out capability.

57. Now that WEA has been deployed for over three years, the Commission seek comment on the opt-out provisions currently used by Participating CMS Providers. Further, the Commission seeks comment on specific factors that lead consumers to opt out of receiving WEA messages. For example, do consumers regularly opt out of receiving WEA messages because they receive alerts that are not relevant to their geographic location? If so, would the new geo-targeting rules the Commission proposes today reduce consumer opt-out? Has message length, particularly the 90-character limit, been a factor in consumer decisions to opt out? Would the provision of further details about the nature of life-threatening situations and instructions on how to respond make it more or less likely that consumers would choose to opt out of receiving WEA messages? Similarly, would the availability of WEA messages in languages other than English, Emergency Government Information, embedded URLs, embedded phone numbers or multimedia content have an impact on consumer opt out, and if so, then to what extent?

58. The Commission notes that many Participating CMS Providers supply, display, or refer the customer to instructions on how to opt out of receiving WEA messages on Participating CMS Provider Web sites. Does the manner in which Participating CMS Providers offer their customers information regarding consumer choice have an impact on whether consumers opt out of receiving WEA messages? Would the goals of the statute be better served by requiring a more neutral approach? If so, should the Commission prescribe a consistent, transparent and uniform opt-out procedure for WEA messages, or are there other regulatory responses that would effectively prevent such favoritism while providing Participating CMS Providers with more flexibility in how they inform consumers of the options?

59. The Commission seeks comment on the extent to which Participating CMS Providers can provide consumers with a greater number of opt-out choices that might facilitate consumer participation in WEA. For example, could Participating CMS Providers offer users the option to receive AMBER Alerts only during certain times, such as during the day, so they will not be disturbed during the evening or at night? Are consumers currently able to silence some or all WEA alerts by using ''silent mode'' or ''do not disturb'' functions on their mobile devices? Are there other ways to personalize alert receipt options that would help optimize the balance between encouraging WEA participation and providing consumers with sufficient information to make an informed opt out decision? Should the Commission require Participating CMS Providers to offer any of these types of personalized alert receipt options, and, if so, what costs, if any, would such a requirement impose on the Provider? What benefits would be associated with such a requirement? For example, would a greater number of consumers decide not to disassociate completely from WEA if they had a more nuanced range of choices in how they could receive alerts, such as having the option to

cache certain types of alerts received during the evening or night for later delivery during a more convenient time, or to limit the types of weather alerts they would receive, for example, to tornadoes but not thunderstorms?

60. The Commission seeks comment on the extent that public perception of WEA contributes to consumer opt-out and to CMS Provider election to participate in WEA. To the extent that the rules the Commission proposes today will heighten public awareness and improve public perception of the value of WEA, to what extent is this expected to affect consumer opt out and CMS Provider participation?

61. Finally, the Commission seeks comment on what potential barriers may exist that prevent full participation in WEA by all wireless providers, particularly any barriers confronting smaller providers. What measures could lower any barriers to participation for CMS Providers? Are there particular actions the Commission or other stakeholders could take to facilitate the voluntary participation of non-participating CMS providers, particularly smaller providers, in WEA? For instance, do smaller providers encounter issues obtaining WEA-capable devices?

E. WEA Attention Signals and Public Service Announcements

62. Section 11.45 of the EAS rules provides, in pertinent part, that ''[n]o person may transmit or cause to transmit the EAS codes or Attention Signal, or a recording or simulation thereof, in any circumstance other than in an actual National, State or Local Area emergency or authorized test of the EAS.'' While the Commission's WEA rules do not include a comparable bar against the use of the WEA Attention Signal, because the WEA and EAS Attention Signals use identical frequencies, absent a waiver of the Commission's rules, the broadcast or transmission of the WEA Attention Signal may violate Section 11.45 of the Commission's rules, particularly insofar as the respective signals may be indistinguishable to the listener.

63. FEMA, in collaboration with Ready.gov and the Ad Council, has developed a public education campaign consisting of PSAs, which it has distributed to strategic local markets and state and local IPAWS partners. In November 2015, the Public Safety and Homeland Security Bureau (PSHSB or Bureau), on delegated authority, temporarily waived sections 11.45 and 10.520 of the Commission's rules, in order to allow FEMA to raise public awareness about WEA and its attention signal through a PSA campaign. The waiver, which will expire on May 19, 2017, permits the PSAs to play the WEA Attention Signal to familiarize the public with the sounds that they may hear from their mobile device when they receive a WEA Alert. The Bureau, however, conditioned the waiver upon the WEA PSA making clear that the WEA Attention Signal was being used ''in the context of the PSA and for the purpose of educating the viewing or listening public about the functions of their WEA-capable mobile devices and the WEA program.''

64. The Commission proposes to amend its rules to allow broadcast or transmission of the WEA Attention Signal as part of government-developed PSAs in order to address alert originators' need to raise public awareness about WEA. Specifically, the Commission proposes to amend sections 11.45 and 10.520 to allow federal, state and local governments to use the attention signal common to EAS and WEA to raise public awareness about WEA, provided the relevant entity makes it clear that the WEA Attention Signal is being used in the context of the PSA, ''and for the purpose of educating the viewing or listening public about the functions of their WEA-capable mobile devices and the WEA program,'' including by explicitly stating that the WEA attention signal is being used in the context of a PSA for the purpose of educating the public about WEA. The Commission also seek comment on whether the Commission should further amend section 10.520 to bar the use of the WEA Attention Signal in a manner parallel to the bar on use of the EAS Attention Signal in Section 11.45 of the Commission's rules. In the context of increasing the maximum WEA character limit, FEMA notes that it will ''need to . . . conduct additional public information efforts to inform people of the new format of WEA messages they may receive on their cellular phones.'' Would PSAs be useful for this purpose? If the Commission were to amend the Commission's rules to allow the broadcast or transmission of the WEA Attention Signal in PSAs intended to educate the public about WEA, should the Commission limit this exception to PSAs that are developed by FEMA, or should the Commission extend this exception to PSAs created by any alerting authority recognized by FEMA? If the Commission were to extend the exception in this manner, should any such PSAs be subject to prior review or approval by FEMA as a condition of being considered compliant under the Commission's amended rules?

F. Non-Commercial Educational and Public Broadcast Television Station Testing

65. The WARN Act and the Commission's rules require Non-commercial Educational (NCE) and public broadcast television station licensees and permittees ''to install necessary equipment and technologies on, or as part of, any broadcast television digital signal transmitter to enable the distribution of geographically targeted alerts by commercial mobile service providers that have elected to transmit emergency alerts'' as a back-up to the C-Interface.

66. In a companion *Further Notice of Proposed Rulemaking (Further Notice)* to the *Second Report and Order,* 73 FR 47552, the Commission sought comment on whether it should adopt rules that require NCE and public broadcast television station licensees and permittees to test the installed equipment. In the *Further Notice,* the Commission noted that NCE and public broadcast television station licensees and permittees will, in essence, provide a redundant path by which Participating CMS Providers will be able to receive geo-targeted alerts. The Commission also noted that it adopted rules to implement 602(f) of the WARN Act to require technical testing of this back-up path for Participating CMS Providers.

67. Against that background, the Commission sought comment on whether NCE/public broadcast television stations should participate in WEA testing, and if so, how this testing should be implemented. The Commission asked whether it should implement similar requirements as those it adopted for Participating CMS Providers. Additionally, the Commission sought comment on whether a different testing regime should be implemented given the unique circumstances of NCE/public broadcast television stations and digital television technology. Only two parties commented in response, both of which noted that, although they supported testing of the NCE/public television portion of the system, there were inherent limits in what such testing would show.

68. Given the passage of time, and the advances in WEA technology that have occurred during that time, the Commission asks that interested parties refresh and update the record on whether and how testing of the broadcast-based WEA infrastructure should be implemented. The Commission also seeks comment on whether NCE/public broadcast television stations have the capability to

test and analyze the transport of messages, and if not, would they be required to purchase testing equipment? Would special procedures and test signals need to be developed to NCE/public broadcast television stations to effectively test message transmission and diagnose delivery problems? Additionally, how would NCE/public broadcast television stations report problems? As an alternative, would it be sufficient to require NCE/public broadcast television stations to simply receive tests originated by the Federal Alert Gateway and re-transmit them to the CMS Provider Alert Gateway?

69. Additionally, the Commission asks commenters to specify the benefits and costs of adopting NCE/public broadcast television station testing requirements. For example, would the public benefits associated with ensuring the reliability of a redundant, back-up system outweigh the costs to NCE and public broadcast station licensees and permittees in testing equipment? Would an extended implementation timeframe mitigate such costs?

G. WEA Prioritization

70. Section 10.410 of the Commission's WEA rules requires Participating CMS Providers' Alert Gateways to process alerts on a first in-first out (FIFO) basis, except for Presidential Alerts, which must be processed before all non-Presidential alerts. Section 10.320 reiterates this requirement, and further requires Participating CMS Provider's Alert Gateways to support ''a mechanism to manage congestion within the CMS provider's infrastructure.'' Further, in the *First Report and Order,* the Commission concluded that ''it would be contrary to the public interest if alert messages were to preempt certain active voice or data sessions,'' observing that it would not be in the public interest if urgent calls for help during crises were preempted by alert traffic. This conclusion was consistent with the recommendations of the CMSAAC, which stated that ''the presentation of the received [ ] alert message should take priority over other mobile device functions except for the preemption of an active voice or data session.''

71. Given the passage of time, and the advances in WEA technology that have occurred during that time, the Commission seeks comment on whether it should amend section 10.320 of the Commission's rules to address prioritization at the Alert Gateway, in transit, and on the mobile device. Specifically, with respect to prioritization at the Alert Gateway, the Commission seeks comment on whether WEA alerts should continue to be processed on a FIFO basis, with the exception of the Presidential Alert? Should Imminent Threat Alerts attaining a certain threshold level of urgency, severity and certainty be processed before other, less extreme Imminent Threats potentially affecting the same geographic area? In the event commenters believe a particular type of alert should be prioritized over another, the Commission seeks comment on the order of prioritization and basis for such prioritization. With respect to the prioritization of WEA alerts in transit, should the Commission require that WEA alert data have priority over all other data in transit? Would this have any unintended practical consequences, given that all traffic is increasingly data?

H. Participating CMS Provider Election Process

72. The Commission's WEA rules allow Participating CMS Providers to elect to transmit WEA alert messages ''in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission.'' The WEA rules also allow Participating CMS Providers to withdraw their election to participate in WEA ''without regulatory penalty or forfeiture.'' The Commission adopted these rules based on the WARN Act's requirements that CMS providers that elect to transmit emergency alerts must agree to follow the technical rules adopted by the Commission, and the WARN Act's provision that Participating CMS Providers may withdraw their election to transmit emergency alerts at any time without penalty upon written notification to subscribers. CSRIC IV recommends that the Commission modify these election procedures to provide CMS Providers with multiple election options. Under CSRIC IV's recommendations, a CMS Provider could elect to continue to participate in WEA under the new rules adopted by the Commission, or ''under the rules in place at the time of the original election.'' CSRIC IV recommends that CMS Providers should be required to electronically file with the Commission, within 180 days following the adoption of changes or enhancements to WEA rules, a letter attesting to the CMS Provider's election as recommended above.

73. The Commission believes that Participating CMS Providers should continue to provide WEA service in a manner consistent with the Commission's WEA rules, including any amendments the Commission might adopt as a result of this proceeding. Under the WARN Act, CMS Provider election to participate in WEA is voluntary, but once a CMS provider elects to participate in WEA, participation must be consistent with the Commission's rules. The WARN Act plainly states that a CMS Provider that elects to transmit alerts under the WARN Act must do so ''in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission.'' There is nothing in the WARN Act that gives a Participating CMS Provider the authority to select which technical standards, protocols, procedures and other requirements with which it will comply. The Commission observes that to allow each Participating CMS Provider to support a substantively or technically different WEA service could introduce confusion and potentially impede interoperability, unnecessarily complicating the task of alert originators at the very instant when lives may depend on getting an accurate and timely alert to the community. Moreover, if the Commission were to adopt CSRIC IV's recommended revisions to the Commission's election procedures, it would threaten to eliminate or severely inhibit the Commission's ability to implement the WARN Act's vision that the WEA service should evolve, consistent with advancements in the underlying technology.

74. The Commission believes that the record and stakeholder practice support the Commission's position that the Commission should revisit its technical rules for WEA as technology evolves in order to ensure that WEA remains an effective, life-saving service. It was the common understanding among all the CMSAAC stakeholders that WEA would evolve with technology. Indeed, many of the proposals in this *Notice* are based upon the CMSAAC recommendations that were not adopted by the Commission in previous reports and orders because of technological limitations present at the time of their adoption. When the Commission adopted the WEA rules, it retained the ''discretion and flexibility'' to evaluate the CMSAAC's recommendations in order to advance the policy goal underlying the WARN Act, *i.e.,* ''the creation of a [WEA system] in which CMS Providers will elect to participate, and which will effectively deliver alerts and warnings to the public.'' The Commission believes this is consistent with the intent of Congress.

75. In light of the rapid deployment of smart handsets and 4G technology as discussed above, the Commission believes that the statutory provisions

giving rise to WEA authorize the Commission to continue to take a leadership role, in cooperation with other federal entities, states, localities and Participating CMS Providers, to promote the continued effectiveness of WEA as a technologically current element of the nation's overall alerting strategy. The Commission also believes that competitive forces provide Participating CMS Providers with strong incentives to continue to transmit emergency alerts to consumer mobile devices and that these market incentives, along with the public safety benefits the Commission expects to result from these proposed rules, provide a strong argument for continued participation in WEA. The Commission seeks comment on this analysis, as well as on CSRIC IV's recommendation to allow Participating CMS Providers to offer WEA pursuant to different requirements.

I. Implementation Timeframe

76. As discussed below, the Commission proposes that Participating CMS Providers must comply with the Commission's WEA messaging rules within one year of their effective date, and with the Commission's WEA geo-targeting and testing rules within sixty days of their effective date. While all of the Commission's proposed rules are intended to leverage commercially available technologies to improve public safety at minimal cost to Participating CMS Providers, the Commission recognizes that compliance with the Commission's WEA messaging rules, unlike the Commission's WEA testing and geo-targeting rules, would likely require modifications to existing network and device standards in order to ensure that Participating CMS Providers are able to comply with these proposed rules in a uniform manner.

77. CSRIC IV recommends that ''within 180 days of the FCC adoption of rules for WEA enhancements, the FCC, Participating CMS [P]roviders, FEMA, and Alert Originators jointly identify the timelines for enhanced WEA development, testing and deployment,'' taking into consideration ATIS/TIA feasibility studies scheduled to be completed within one year. In response to this CSRIC IV recommendation, and for ease of reference and comment, the Commission provides the table below to set forth the timeframes for those instances where the Commission proposes specific implementation deadlines.

FIGURE 3—PROPOSED IMPLEMENTATION TIMEFRAMES

Proposed Rule Amendment	Proposed implementation timeframe
Increasing Maximum WEA Character Length	*Within 1 year of the rules' effective date.*
Classifying Emergency Government Information	*Within 1 year of the rules' effective date.*
Embedding Telephone Numbers and URLs	*Within 1 year of the rules' effective date.*
Multimedia Alerting	*The Commission seeks comment on a reasonable timeline for Participating CMS Providers to support multimedia in WEA messages.*
Multilingual Alerting	*The Commission seeks comment on a reasonable timeline for Participating CMS Providers to support multilingual WEA messages.*
WEA Geo-targeting	*Within 60 days of the rules' effective date.*
Adopting State and Local WEA Testing and Proficiency Training	*Within 60 days of the rules' effective date.*
Requiring Alert Logging Test Reporting	*Within 60 days of the adoption of final State/Local WEA Testing and proficiency training rules, or within 60 days of the launch of ETRS, whichever is later.*
WEA Attention Signals and Public Service Announcements	*Within 60 days of the rules' effective date.*
Non-commercial Educational and Public Broadcast Television Station Testing.	*The Commission seeks comment on a reasonable timeline for testing of the broadcast-based WEA infrastructure to commence.*

78. *Proposed WEA Messaging Rules.* The Commission proposes that all Participating CMS Providers should comply with the Commission's proposed WEA messaging rules—specifically, the Commission's proposed requirements to extend the maximum WEA message length to 360 characters, provide Emergency Government Information alert messages, and be capable of including phone numbers and URLs in WEA alerts—one year from the adoption of final rules. While the Commission believes these proposed requirements leverage commercially available technologies, the Commission recognizes that implementation of these requirements would necessitate standards modifications. In particular, according to CSRIC IV, the standards revision process associated with increasing the maximum WEA character length would take one year to complete. The Commission seeks comment on this timeframe. Commenters are encouraged to specify an alternative timeline if compliance within one year is considered infeasible, or if compliance can be met earlier, including by specifying whether compliance with the Commission's proposed rules should be completed in stages. The Commission also seeks comment on benefits and costs relating to the Commission's analysis and transition period.

79. *Proposed Geo-targeting, Testing, Logging, and Reporting Rules.* The Commission proposes that all Participating CMS Providers should be required to comply with the Commission's WEA testing and geo-targeting rules within sixty days of their effective date. Given that some Participating CMS Providers are already utilizing a variety of techniques discussed above to voluntarily deliver more finely geo-targeted WEA messages, and that CSRIC IV recommends that the Commission establish a waiver process to the extent necessary to allow State/Local WEA Testing during the pendency of this rulemaking, the Commission believes that Participating CMS Providers are already capable of complying with the Commission's proposed geo-targeting and testing rules, and that it would serve the public interest to implement these requirements in a swift manner. The Commission seeks comment on this timeframe and on the Commission's rationale.

80. The Commission further proposes that Participating CMS Providers should comply with WEA alert logging and test reporting requirements within sixty days of the adoption of final State/Local WEA Testing and proficiency training rules, or within sixty days of the launch of ETRS, whichever is later. The Commission notes that the Commission required EAS Participants to file test report data in ETRS within sixty days of the effective date of the ETRS rules, or within sixty days of the launch of the ETRS, whichever was later. The Commission anticipates that filing test result data in ETRS will present

Participating CMS Providers with obligations similar to those of EAS Participants. If ETRS is not operational within sixty days of the adoption of final State/Local WEA Testing rules, the Commission proposes to encourage state and local alert originators who engage in State/Local WEA Testing to file self-recorded test results in PS Docket No. 15–91 using the Electronic Comment Filing System (ECFS) until ETRS becomes operational. In this manner, any meaningful data from initial State/Local WEA Tests would be captured and recorded, and could be leveraged to help improve WEA. Finally, the Commission proposes that any amendments to the Commission's WEA rules to allow the use of the WEA tones in government-produced PSAs would be effective sixty days from their effective date.

81. *Providing Multilingual and Multimedia Alerts.* The Commission seeks comment on timeframes within which it would be reasonable to expect Participating CMS Providers to support WEA messages in languages other than English, and messages that contain multimedia. In responding to the Commission's requests for comment on the form that rules regarding these issues should take, commenters are encouraged to provide timetables along which the Commission should reasonably expect Participating CMS Providers to comply with such requirements, including any interim milestones that the Commission might expect Participating CMS Providers to reach along the way to fulfilling the Commission's ultimate objectives.

82. *NCE and Public Broadcast Television Station Testing.* The Commission asks commenters to propose a specific implementation timeframe to enable NCE and public broadcast television station licensees and permittees to test the installed equipment. For example, if the Commission were to require NCE/public broadcast television station testing of equipment, should such a requirement be phased in over a specific period of time? Under a phased-in approach, what would be appropriate milestones to guide implementation of such testing requirements? What would be the costs and benefits of a phased in approach?

III. Procedural Matters

A. Ex Parte Rules

83. The proceeding this *Notice* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Filing Procedures

84. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments in response to this *Notice* on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties that choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

1. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

2. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

3. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

C. Initial Regulatory Flexibility Analysis

85. As required by the Regulatory Flexibility Act of 1980, *see* 5 U.S.C. 604, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in Appendix B. Written public comments are requested in the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to this *Notice of Proposed Rulemaking* as set forth on the first page of this document, and have a separate and distinct heading designating them as responses to the IRFA.

D. Initial Paperwork Reduction Analysis

86. This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this

document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

E. Further Information

1. For further information regarding the Notice of Proposed Rulemaking contact James Wiley, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418–1678 or *james.wiley@fcc.gov* or John A. Evanoff, Attorney-Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–0848 or *john.evanoff@fcc.gov.*

IV. Ordering Clauses

2. Accordingly, *it is ordered* that pursuant to Sections 1, 4(i) and (o), 201, 303(r), 403, and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403, and 606, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act, this *Notice of Proposed Rulemaking Is* hereby *adopted.*

3. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 10

Communications common carriers, Radio, Emergency alerting.

47 CFR Part 11

Radio, Television, Emergency alerting.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 10 and 47 CFR part 11 to read as follows:

PART 10—WIRELESS EMERGENCY ALERTS

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403, and 606, as well as sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act.

■ 2. Amend § 10.280 by revising paragraph (a) to read as follows:

§ 10.280 Subscribers' right to opt out of WEA notifications.

(a) CMS providers may provide their subscribers with the option to opt out of the ''Child Abduction Emergency/AMBER Alert,'' ''Imminent Threat Alert'' and/or ''Emergency Government Information'' classes of Alert Messages.

* * * * *

■ 3. Add paragraph (g) to § 10.320 to read as follows:

§ 10.320 Provider alert gateway requirements

* * * * *

(g) *Alert Logging.* The CMS provider gateway must perform the following functions:

(1) Provide a mechanism to log messages with time stamps that verify when messages are received, and when the messages are acknowledged or rejected by the Participating CMS Provider Alert Gateway, and if an alert is rejected, to provide the specific error code generated by the rejection;

(2) Maintain an online log of active and cancelled alert messages for 90 days, and maintain archived logs for at least 36 months that should be accessible by Participating CMS Providers for testing and troubleshooting purposes; and

(3) Generate monthly system and performance statistics reports based on category of alert, alert originator, alert area, and other alerting attributes?

■ 4. Amend § 10.350 by revising the section heading and adding paragraph (c) to read as follows:

§ 10.350 WEA testing and proficiency training requirements.

* * * * *

(c) *State/Local WEA Testing.* A Participating CMS Provider must ensure that their systems support State/Local WEA Testing and proficiency training.

(1) A Participating CMS Provider's Gateway shall support the ability to receive a State/Local WEA Test message initiated by the Federal Alert Gateway Administrator.

(2) A Participating CMS Provider shall distribute a State/Local WEA Test to the geographic area specified by the alert originator pursuant to the geographic targeting standard established by § 10.450 of this chapter.

(3) A Participating CMS Provider may forego a State/Local WEA Test if the State/Local WEA Test is pre-empted by actual alert traffic or if an unforeseen condition in the CMS Provider infrastructure precludes distribution of the State/Local WEA Test. A Participating CMS Provider Gateway shall indicate such an unforeseen condition by a response code to the Federal Alert Gateway.

(4) CMS Providers may provide their subscribers with the option to opt in to receive State/Local WEA Tests.

■ 5. Revise the introductory text and add paragraph (d) to § 10.400 to read as follows:

§ 10.400 Classification.

A Participating CMS Provider is required to receive and transmit four classes of Alert Messages: Presidential Alert; Imminent Threat Alert; Child Abduction Emergency/AMBER Alert; and Emergency Government Information.

* * * * *

(d) *Emergency Government Information.* An Emergency Government Information message is an essential public safety advisory that prescribes one or more actions likely to save lives and/or safeguard property during an emergency.

■ 6. Revise § 10.430 to read as follows:

§ 10.430 Character limit.

A Participating CMS Provider must support WEA Alert Messages containing at least 90 characters of alphanumeric text. If, however, it is technically feasible for a Participating CMS Provider to support a WEA Alert Message of up to 360 characters of alphanumeric text, a Participating CMS Provider must transmit such an Alert Message.

§ 10.440 [Removed]

■ 7. Remove § 10.440.

■ 8. Revise § 10.450 to read as follows:

§ 10.450 Geographic targeting.

This section establishes minimum requirements for the geographic targeting of Alert Messages. A Participating CMS Provider will determine which of its network facilities, elements, and locations will be used to geographically target Alert Messages. A Participating CMS Provider must transmit any alert message that is specified by a geocode, circle, or polygon to a target area not larger than the specified geocode, circle, or polygon. If, however, the Participating CMS Provider cannot broadcast the alert to an area that accurately matches the target area, a Participating CMS Provider may transmit an Alert Message to an area that closely approximates the target area, but in any case not exceeding the propagation area of a single transmission site.

■ 9. Amend § 10.520 by revising paragraph (d) to read as follows:

§ 10.520 Common audio attention signal.

* * * * *

(d) The audio attention signal must be restricted to use for Alert Messages under part 10, except as used for federal Public Service Announcements (PSAs) designed to raise public awareness about emergency alerting, provided that the federal agency presents the PSA in a non-misleading manner, including by explicitly stating that the emergency alerting attention signal is being used in the context of a PSA for the purpose of educating the viewing or listening public about emergency alerting.

* * * * *

PART 11—EMERGENCY ALERT SYSTEM

■ 10. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

■ 11. Revise § 11.45 to read as follows:

§ 11.45 Prohibition of false or deceptive EAS transmissions.

No person may transmit or cause to transmit the EAS codes or Attention Signal, or a recording or simulation thereof, in any circumstance other than in an actual National, State or Local Area emergency or authorized test of the EAS, or as specified in § 10.520(d).

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Chapter X

[Docket No. EP 729]

Offers of Financial Assistance

AGENCY: Surface Transportation Board, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board seeks comment on whether and how it should update its rules pertaining to offers of financial assistance in order to improve that process and protect it against abuse.

DATES: Comments are due by February 12, 2016. Reply comments are due by March 14, 2016.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's Web site at ''*www.stb.dot.gov''* at the ''E–FILING'' link. Any person submitting a filing in paper format should send an original and 10 paper copies of the filing (and also an electronic version) to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. Copies of written comments and replies will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet, (202) 245–0368. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: In the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (1995) (ICCTA), Congress revised the process for filing offers of financial assistance (OFAs) for continued rail service, codified at 49 U.S.C. 10904. Under the OFA process, as further implemented in the Board's regulations at 49 CFR 1152.27, financially responsible parties may offer to temporarily subsidize continued rail service over a line on which a carrier seeks to abandon or discontinue service, or offer to purchase a line and provide continued rail service on a line that a carrier seeks to abandon.

Upon request, the abandoning or discontinuing carrier must provide certain information required under 49 U.S.C. 10904(b) and 49 CFR 1152.27(a) to a party that is considering making an OFA. A party that decides to make an OFA (the offeror) must submit the OFA to the Board, including the information specified in 49 CFR 1152.27(c)(1)(ii). If the Board determines that the OFA is made by a financially responsible offeror, the abandonment or discontinuance authority is postponed to allow the parties to negotiate a sale or subsidy arrangement. 49 U.S.C. 10904(d)(2); 49 CFR 1152.27(e). If the parties cannot agree to the terms of a sale or subsidy, they may request that the Board set binding terms under 49 U.S.C. 10904(f)(1). After the Board has set the terms, the offeror can accept the terms or withdraw the OFA. When the operation of a line is subsidized to prevent abandonment or discontinuance of service, it may only be subsidized for up to one year, unless the parties mutually agree otherwise. 49 U.S.C. 10904(f)(4)(b). When a line is purchased pursuant to an OFA, the buyer must provide common carrier service over the line for a minimum of two years and may not resell the line for five years after the purchase. 49 U.S.C. 10904(f)(4)(A); 49 CFR 1152.27(i)(2).

Since the changes to the OFA process in ICCTA were enacted, the Board's experiences have shown that there are areas where clarifications and revisions could enhance the OFA process and protect it against abuse. Therefore, the Board seeks public comments on whether and how to improve any aspect of the OFA process, including enhancing its transparency and ensuring that it is invoked only to further its statutory purpose of preserving lines for rail service. Although we invite public comment on ways to improve any aspect of the OFA process, we also specifically seek comments on the following possible changes to the Board's OFA regulations.

Financial Responsibility

The Board's regulations require that a potential offeror demonstrate that it is ''financially responsible,'' but those regulations do not fully define this concept or what facts or evidence a party must provide to demonstrate financial responsibility. The Board has made various rulings on this question in specific proceedings, but those rulings are not codified in our regulations, which has led to disputes in some proceedings. *See, e.g., Consol. Rail Corp—Aban. Exemption—in Phila. Pa.*, AB 55 (Sub-No. 710X) *et al.,* slip op. at 4 (STB served Oct. 26, 2012) (''[T]he Offerors assert that they were and are still unsure exactly what documents they were required to produce to be considered financially responsible. . .''). *See also Ind. Sw. Ry.—Aban. Exemption—in Posey & Vanderburgh Ctys., Ind.,* AB 1065X, slip op. at 4–5 (STB served April 8, 2011) (detailing information required from an offeror to establish financial responsibility, in detail beyond that contained in 49 CFR 1152.27(c)(1)(ii)(B)). Accordingly, we ask parties to comment on how the Board should modify its regulations so that the definition of financial responsibility is more transparent and understandable. We also ask parties to comment on methods of ensuring that an offeror is in fact financially responsible, including the following:

- What documentation should a potential offeror be required to submit to show financial responsibility?
- Should the Board require that potential offerors file notices of intent to file an OFA in abandonment and