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United States Government Accountability Office
Washington, DC 20548

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August 27, 2008

The Honorable Daniel K. Inouye
Chairman
The Honorable Kay Bailey Hutchison
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John D. Dingell
Chairman
The Honorable Joe Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Commercial Mobile Alert System*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (Commission), entitled “Commercial Mobile Alert System” (FCC 08-164). We received the rule on July 24, 2008. It was published in the *Federal Register* as a final rule on August 14, 2008. 73 Fed. Reg. 47,550.

The final rule requires non-commercial educational and public broadcast television station licensees and permittees to install equipment and technologies that will provide these licensees/permittees with the ability to enable the distribution of geo-targeted Commercial Mobile Alert System (CMAS) alerts to participating Commercial Mobile Service (CMS) providers. The final rule also requires technical testing for CMS providers that elect to transmit emergency alerts and for the devices and equipment used by such providers for transmitting such alerts.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Jean Ann Collins
Deputy Division Chief
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"COMMERCIAL MOBILE ALERT SYSTEM"
(FCC 08-164)

(i) Cost-benefit analysis

The Federal Communications Commission is not required to prepare, and did not prepare, a cost-benefit analysis for the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. Both analyses comply with the requirements of the Act.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. § 553. On January 3, 2008, the Commission published a Notice of Proposed Rulemaking and Request for Comment in the *Federal Register* regarding the proposed rule. 73 Fed. Reg. 546. In the final rule, the Commission published the comments and reply comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule states that it adopts a new or revised information collection requirement subject to the Paperwork Reduction Act (PRA). The Commission will submit this requirement to the Office of Management and Budget (OMB) for review under section 3507 of the PRA. The requirement will not take effect until OMB has approved it and the Commission has published a notice announcing the effective date of the requirement.

Statutory authorization for the rule

The final rule is authorized by the authority contained in section 602 of the Warning, Alert, and Response Network Act, Title VI of the Security and Accountability for Every Port Act of 2006, Pub. L. No. 109-347.

Executive Order No. 12,866

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.