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United States Government Accountability Office  
Washington, DC 20548

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B-316873

August 6, 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 08-99). We received the rule on July 16, 2008. It was published in the *Federal Register* as a final rule on July 24, 2008. 73 Fed. Reg. 43,099.

The final rule adopts technical rules necessary to enable the Commercial Mobile Service (CMS) alerting capability for CMS providers who elect to transmit emergency alerts to their subscribers. Through this rule, the Commission takes steps to satisfy the requirements of the Warning, Alert, and Response Network Act. Pub. L. No. 109-347, 120 Stat. 1884, 1936-43, 1936 (2006). The Commission adopted an architecture for the Commercial Mobile Alerting System based on the recommendations of the Commercial Mobile Service Alert Advisory Committee. In the final rule, the Commission states that “in adopting these rules, the Commission has taken a significant step towards implementing one of its 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 irrespective of what communications technologies they use.” 73 Fed. Reg. 43,100. The final rule has an effective date of September 22, 2008.

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 08-99)

(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. Moreover, in the Initial Regulatory Flexibility Analysis, the Commission sought comments on the burdens imposed on small entities; however, no commenter proposed an alternative version that would lessen the economic burden.

(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 the rule may contain new information collection requirements subject to the Paperwork Reduction Act. If the Commission determines that the final rule contains information collections subject to the Act, it

will submit such collections to the Office of Management and Budget for review under section 3507(d) at an appropriate time.

#### Statutory authorization for the rule

The final rule is authorized by the authority contained in 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; Titles I through III of the Communications Act of 1934, as amended; and Exec. Order No. 13407, 71 Fed. Reg. 36,975 (June 26, 2006).

#### Executive Order No. 12,866

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