

(d) *Commercial Mobile Service Provider.* A Commercial Mobile Service Provider (or CMS Provider) is an FCC licensee providing commercial mobile service as defined in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1)). Section 332(d)(1) defines the term commercial mobile service as any mobile service (as defined in 47 U.S.C. 153) that is provided for profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.

(e) *County and County Equivalent.* The terms County and County Equivalent as used in this part are defined by Federal Information Processing Standards (FIPS) 6–4, which provides the names and codes that represent the counties and other entities treated as equivalent legal and/or statistical subdivisions of the 50 States, the District of Columbia, and the possessions and freely associated areas of the United States. Counties are considered to be the “first-order subdivisions” of each State and statistically equivalent entity, regardless of their local designations (county, parish, borough, *etc.*). Thus, the following entities are considered to be equivalent to counties for legal and/or statistical purposes: The parishes of Louisiana; the boroughs and census areas of Alaska; the District of Columbia; the independent cities of Maryland, Missouri, Nevada, and Virginia; that part of Yellowstone National Park in Montana; and various entities in the possessions and associated areas. The FIPS codes and FIPS code documentation are available online at <http://www.itl.nist.gov/fipspubs/index.htm>.

(f) *Participating Commercial Mobile Service Provider.* A Participating Commercial Mobile Service Provider (or a Participating CMS Provider) is a Commercial Mobile Service Provider that has voluntarily elected to transmit Alert Messages under subpart B of this part.

(g) *“C” Interface.* The interface between the Alert Gateway and CMS provider Gateway.

(h) *CMS provider Gateway.* The mechanism(s) that supports the “C” inter-

face and associated protocols between the Alert Gateway and the CMS provider Gateway, and which performs the various functions associated with the authentication, management and dissemination of CMAS Alert Messages received from the Alert Gateway.

(i) *CMS provider infrastructure.* The mechanism(s) that distribute received CMAS Alert Messages throughout the CMS provider’s network, including cell site/paging transceivers and perform functions associated with authentication of interactions with the Mobile Device.

(j) *Mobile Devices.* The subscriber equipment generally offered by CMS providers that supports the distribution of CMAS Alert Messages.

[73 FR 43117, July 24, 2008, as amended at 73 FR 54525, Sept. 22, 2008]

#### § 10.11 CMAS implementation timeline.

Notwithstanding anything in this part to the contrary, a participating CMS provider shall begin an 18 month period of development, testing and deployment of the CMAS in a manner consistent with the rules in this part no later than 10 months from the date that the Federal Alert Aggregator and Alert Gateway makes the Government Interface Design specifications available.

[73 FR 54525, Sept. 22, 2008]

### Subpart B—Election to Participate in Commercial Mobile Alert System

SOURCE: 73 FR 54525, Sept. 22, 2008, unless otherwise noted.

#### § 10.210 CMAS participation election procedures.

(a) A CMS provider that elects to transmit CMAS Alert Messages, in part or in whole, shall electronically file with the Commission a letter attesting that the Provider:

(1) Agrees to transmit such alerts in a manner consistent with the technical standards, protocols, procedures, and other technical requirements implemented by the Commission; and

(2) Commits to support the development and deployment of technology for the “C” interface, the CMS provider

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Gateway, the CMS provider infrastructure, and mobile devices with CMAS functionality and support of the CMS provider selected technology.

(b) A CMS provider that elects not to transmit CMAS Alert Messages shall file electronically with the Commission a letter attesting to that fact.

(c) CMS providers shall file their election electronically to the docket.

**§ 10.220 Withdrawal of election to participate in CMAS.**

A CMS provider that elects to transmit CMAS Alert Messages, in part or in whole, may withdraw its election without regulatory penalty or forfeiture if it notifies all affected subscribers as well as the Federal Communications Commission at least sixty (60) days prior to the withdrawal of its election. In the event that a carrier withdraws from its election to transmit CMAS Alert Messages, the carrier must notify each affected subscriber individually in clear and conspicuous language citing the statute. Such notice must promptly inform the customer that he or she no longer could expect to receive alerts and of his or her right to terminate service as a result, without penalty or early termination fee. Such notice must facilitate the ability of a customer to automatically respond and immediately discontinue service.

**§ 10.230 New CMS providers participation in CMAS.**

CMS providers who initiate service at a date after the election procedure provided for in §10.210(d) and who elect to provide CMAS Alert Messages, in part or in whole, shall file electronically their election to transmit in the manner and with the attestations described in §10.210(a).

**§ 10.240 Notification to new subscribers of non-participation in CMAS.**

(a) A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall 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 to provide Alert messages at the point-of-sale.

(b) The point-of-sale includes stores, kiosks, third party reseller locations, web sites (proprietary or third party), and any other venue through which the CMS provider's devices and services are marketed or sold.

(c) CMS providers electing to transmit alerts "in part" shall use the following notification:

NOTICE REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS provider]] has chosen to offer wireless emergency alerts within portions of its service area, as defined by the terms and conditions of its service agreement, on wireless emergency alert capable devices. There is no additional charge for these wireless emergency alerts.

Wireless emergency alerts may not be available on all devices or in the entire service area, or if a subscriber is outside of the [[CMS provider]] service area. For details on the availability of this service and wireless emergency alert capable devices, please ask a sales representative, or go to [[CMS provider's URL]].

Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

(d) CMS providers electing in whole not to transmit alerts shall use the following notification language:

NOTICE TO NEW AND EXISTING SUBSCRIBERS REGARDING TRANSMISSION OF WIRELESS EMERGENCY ALERTS (Commercial Mobile Alert Service)

[[CMS provider]] presently does not transmit wireless emergency alerts. Notice required by FCC Rule 47 CFR 10.240 (Commercial Mobile Alert Service).

**§ 10.250 Notification to existing subscribers of non-participation in CMAS.**

(a) A CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall 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 to provide Alert messages by means of an announcement amending the existing subscriber's service agreement.

(b) For purposes of this section, a CMS provider that elects not to transmit CMAS Alert Messages, in part or in whole, shall use the notification language set forth in §10.240 (c) or (d) respectively, except that the last line of the notice shall reference FCC Rule 47