



Federal Communications Commission
Washington, D.C. 20554

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DA 18-374

Small Entity Compliance Guide

Amendment of Part 11 of the Commission's Rules Regarding Emergency Alert System

FCC 17-170
PS Docket No. 15-94
Released December 14, 2017

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—to comply with the revised rule adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking docket. This Guide is not intended to replace or supersede these rules but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rule that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rule applies. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decisions regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide maybe considered as evidence of the reasonableness or appropriateness of proposed fines, penalties and damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

The *Amendment of Part 11 of the Commission's Rules Regarding Emergency Alert System Report and Order (Report and Order)* advances the important public policy of protecting our nation's law enforcement officials and the communities they serve. Specifically, the *Report and Order* revises the Federal Communications Commission's (FCC) Emergency Alert System (EAS) rules to adopt the three-character code BLU as a new EAS event code, thereby enabling the delivery of "Blue Alerts" over the EAS, and permits Blue Alerts to be delivered over Wireless Emergency Alerts (WEA) (as one type of "Imminent Threat" Alert).¹ The Commission's actions in the *Report and Order* promote the development of compatible and integrated Blue Alert plans throughout the United States, consistent with the Rafael Ramos and Wenjian Liu National Blue Alert Act of 2015 (Blue Alert Act),² and support the need for a dedicated EAS event code for Blue Alerts, which was identified by the Office of Community Oriented Policing Service (COPS Office) of the United States Department of Justice (DOJ). The *Report and Order* adopted in this proceeding gives State and local agencies the option to notify the public of threats to law enforcement, and help apprehend dangerous suspects, by issuing warnings to the public through broadcast, cable, satellite, and wireline and wireless video system providers (EAS Participants). Officials may also send Blue Alerts through WEA to consumers' wireless phones. The Commission believes that establishing the BLU event code is in the public interest as a means to improve emergency alerting during emergency events such as those described in the COPS Office *Blue Alert Guideline*.³

II. COMPLIANCE REQUIREMENTS

A. Amendment of the EAS Rules to Create and Add the Dedicated BLU Event Code to the EAS Protocol for Blue Alerts (47 CFR §11.31(e))

- The dedicated BLU event code can only be used pursuant to the Blue Alert Act as implemented by the Office of Community Oriented Policing Services (COPS Office) of the United States Department of Justice (DOJ), to facilitate the dissemination of information in a consistent manner, when a law enforcement officer is (1) seriously injured or killed in the line of duty; (2) when there is an imminent credible threat of death or serious injury to a law enforcement officer; or (3) when a law enforcement officer is missing in connection with official duties.
 - If a Blue Alert is based on the first of the criteria listed above, the law enforcement agency must confirm that a law enforcement officer has been killed, seriously injured, or attacked, and there are indications of death or serious injury.

¹ The Commission left the docket open until March 19, 2018 (which was 60 days after publication of the summary of the *Report and Order* in the Federal Register) for comment on one issue: whether additional rule changes would be helpful to facilitate delivery of Blue Alerts over WEA, and the potential implementation steps, time frame, and costs associated with such changes.

² Rafael Ramos and Wenjian Liu National Blue Alert Act of 2015, Pub. L. No. 114-12, 129 Stat. 192 (2015). The Blue Alert Act directs the creation of guidelines that, among other things, shall "provide mechanisms that ensure that Blue Alerts comply with all applicable Federal, State, and local privacy laws and regulations" and "include standards that specifically provide for the protection of the civil liberties, including the privacy, of law enforcement officers who are seriously injured or killed in the line of duty," are "missing in connection with the officer's official duties, or who are threatened with death or serious injury, and the families of the officers." See 34 U.S.C. § 50503(c)(3).

³ See U.S. Dep't of Justice, Office of Community Oriented Policing Services, *National Blue Alert Network: When to Issue a Blue Alert*, https://cops.usdoj.gov/pdf/blue-alert/blue_alert_guidelines.pdf (*Blue Alert Guidelines*); 34 U.S.C. § 50503(b)(2)(D).

- If a Blue Alert is based on the second of the criteria listed above, the law enforcement agency must confirm that the threat is imminent and credible, and at the time of receipt of the threat, any suspect involved is wanted by a law enforcement agency.
 - If a Blue Alert is based on the third of the criteria listed above, the agency must have concluded that there is indication of serious injury to, or death of the missing law enforcement officer.⁴
- Blue Alerts may only be used to warn the public when there is actionable information related to a law enforcement officer as described above, and in all cases, the agency issuing the alert must confirm that any suspect involved has not been apprehended and there is sufficient descriptive information of the suspect, including any relevant vehicle and license tag information.
- Blue Alerts to the public over the EAS must otherwise satisfy the requirements articulated by the COPS Office in its voluntary Blue Alert Guidelines including focusing on an appropriately narrow geographic area and providing information in the message on the suspect's last known location, direction of travel, and possible destination.
- Alert originators should initiate Blue Alerts via the Integrated Public Alert and Warning System (IPAWS) and include detailed information as part of each Blue Alert for which it is available.
 - EAS Participants are required to create video crawls based upon the enhanced text contained within the Common Alerting Protocol (CAP) message.
 - The last known location, direction of travel, and possible destinations of the suspect should be included as part of the alert message.
- In setting up the system for Blue Alerts, EAS manufacturers and EAS Participants are encouraged to take technical steps to facilitate the delivery of IPAWS-based EAS Blue Alerts to the public where an alert is first delivered to an EAS Participant via broadcast.
- Blue Alerts may be deployed via WEA using existing alerting methodologies and consistent with the Commission's WEA rules.
- EAS Participants have a 12-month period from the effective date of the *Report and Order*—until January 18, 2019— to ensure that their equipment is capable of delivering of Blue Alerts over EAS.
- Participating Commercial Mobile Service Providers have an 18 month period from the effective date of the *Report and Order* —until July 18, 2019— to ensure that their equipment is capable of delivering Blue Alerts over WEA.
- The use of the BLU event code is voluntary, and EAS Participants may update their software to add the BLU event code on a voluntary basis. Such software updates may be bundled with other routine software updates to minimize burden and expense.

⁴ *Blue Alert Guidelines*; 34 U.S.C. § 50503(b)(2)(E).

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The *Report and Order* did not create any new reporting or recordkeeping requirements.

IV. IMPLEMENTATION DATE

EAS Participants choosing to offer Blue Alerts over EAS must render their equipment capable of delivering Blue Alerts over EAS by January 18, 2019 (one year after the summary of the *Report and Order* was published in the Federal Register).

Participating CMS Providers choosing to offer Blue Alerts over WEA must render their equipment capable of delivering Blue Alerts over WEA by July 18, 2019 (eighteen months after the summary of the *Report and Order* was published in the Federal Register).

V. INTERNET LINKS

A copy of the *Amendment of Part 11 of the Commission's Rules Regarding Emergency Alert System, Report and Order* is available at:

https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-170A1.docx

https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-170A1.pdf

https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-170A1.txt

A copy of the Federal Register Summary of the *Amendment of Part 11 of the Commission's Rules Regarding Emergency Alert System, Report and Order* is available at:

<https://www.federalregister.gov/documents/2018/01/18/2018-00595/blue-alert-eas-event-code>