



Federal Communications Commission
Washington, D.C. 20554
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SMALL ENTITY COMPLIANCE GUIDE

**Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System
Wireless Emergency Alerts
FCC 21-77
PS Docket No. 15-94
PS Docket No. 15-91
Released: June 17, 2021**

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—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. 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 rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. 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 may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or 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

In the Report and Order (*Order*) in PS Docket No. 15-91 and PS Docket No. 15-94, the Commission revised the Wireless Emergency Alerts (WEA) and Emergency Alert System (EAS) rules to implement Section 9201 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. This legislation required the Commission to implement various changes to the EAS and WEA rules to ensure that more people receive relevant emergency alerts, enable state, local, Tribal and territorial governments to report false EAS and WEA alerts when they occur, and to improve the administration and oversight of EAS alert distribution. The rules adopted in the *Order* are intended to improve the capabilities and efficacy of EAS and WEA as systems for distributing vital alert information to all Americans in a cost-effective manner.

The *Order* amends the Commission's rules to (i) replace WEA's existing Presidential Alert class with a National Alert class to ensure that WEA-enabled mobile devices cannot opt-out of receiving WEA alerts issued by the President (or the President's authorized designee) or by the Administrator of the Federal Emergency Management Agency (FEMA); (ii) require Participating Commercial Mobile Service (CMS) Providers whose networks use WEA header displays that read "Presidential Alert" to change those alert headers to read "National Alert" or to remove such headers altogether; (iii) encourage chief executives of states to form State Emergency Communications Committees (SECC) if none exist in their states, or if they do, to review their composition and governance, update their State EAS Plans annually, and certify that they have met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update the plan; (iv) incorporate certain processing actions concerning SECCs' and the FCC's administration of State EAS Plans; (v) enable false EAS and WEA alert reporting by the FEMA Administrator as well as state, local, Tribal, and territorial governments; and (vi) provide for repeating EAS alerts issued by the President, the Administrator of FEMA and any other entity determined appropriate under the circumstances by the Commission, in consultation with the Administrator of FEMA.

II. COMPLIANCE REQUIREMENTS

The *Order* makes several changes to the rules governing WEA and EAS to improve their functionality.

1. Establishment of National WEA Alerts

- ***Expansion of WEA Alerts that Handsets Must Receive and Process (47 CFR §§ 10.320(e)(3), 10.400(a), 10.410, 10.420, and 10.500(f))***

The amended rules combine and rename the current class of "Presidential" WEA alerts, which handsets may not opt out of receiving and displaying, with a new alert class called "National Alerts." The new National Alerts class will include alerts issued by the President, the President's designees, and the FEMA Administrator that handsets will not be able to opt out of receiving and displaying. In addition, the rule amendments substitute the term "National Alert" for "President Alert" to ensure that National Alerts will be prioritized over other alerts, the same as Presidential Alerts were prior to the creation of the National Alert category.

- Amended section 10.320(e)(3) requires the gateway of CMS Providers to process an Alert Message on a first in-first out (FIFO) basis except for National Alerts, which must be processed before all non-National Alerts. (Prior to the amendment, this requirement applied to Presidential Alerts.)
- Amended section 10.400(a) establishes a National Alert classification for WEA alerts, defined as an alert issued by the President of the United States or the President’s authorized designee, or by the Administrator of FEMA. National Alerts may be either nationwide or regional in distribution.
- Amended section 10.410 requires CMS Providers to transmit National Alerts upon receipt. National Alerts preempt all other Alert Messages. CMS Providers are required to transmit Imminent Threat Alerts, AMBER Alerts and Public Safety Messages on a FIFO basis. (Prior to the amendment, this requirement applied to Presidential Alerts.)
- Amended section 10.420 requires that WEA Alert messages processed by CMS Providers must include five mandatory Common Alerting Protocol (CAP) elements: Event Type; Area Affected; Recommended Action; Expiration Time (with time zone); and Sending Agency. This requirement does not apply to National Alerts. (Prior to the amendment, Presidential Alerts were excepted from this requirement.)
- Amended section 10.500(f) requires that mobile devices present alert content consistent with subscriber opt-out selections, except for National Alerts, which must always be presented (there is no subscriber opt-out provision for National Alerts). (Prior to the amendment, Presidential Alerts were required to be presented with no opt-out permitted.)

➤ ***Handset Display of National Alerts (47 CFR § 10.11(b))***

Under the amended section 10.11(b) handsets that currently display the words “Presidential Alert” to identify WEA Presidential Alerts are required to change the display to read “National Alert,” if technically feasible, by July 31, 2022.

- CMS Providers whose network infrastructure generates and displays WEA headers with the text “Presidential Alert” to subscribers upon receipt of a National Alert, or include the text “Presidential Alert” in a mobile device’s settings menus, must by July 31, 2022, either generate and display WEA headers and menus with the text “National Alert,” or no longer display those headers and menu text to the subscriber.
- Network infrastructure that is technically incapable of meeting this requirement, such as situations in which legacy devices or networks cannot be updated to support header display changes, are exempt from this requirement.

2. Administration of EAS Alerts

➤ *State Emergency Communications Committees (SECCs) and State EAS Plan Provisions (47 CFR §§ 11.21, 11.21(a) and (a)(8))*

The amended rules are intended to strengthen SECCs – the bodies that administer the State EAS Plans that contain the procedures for EAS alert distribution within the state – and enhance their administration of State EAS Plans.

- The amended introductory paragraph to section 11.21:
 - (i) Encourages the chief executive of each State to establish an SECC if their State does not have an SECC, and if the State has an SECC, to review the composition and governance of the SECC.
 - (ii) Requires State EAS Plans submitted to the Chief of the Public Safety and Homeland Security Bureau (Bureau) for approval to be reviewed and approved or denied within 60 days of receipt – with the proviso that if a submitted plan is found defective, the SECC will be notified of the required corrections, and the corrected plan may be resubmitted for approval, thus starting the 60-day review and approval period anew.
 - (iii) Requires that the approval dates of State EAS Plans be listed on the Commission’s website.
- The amended section 11.21(a) requires that State EAS Plans be updated on an annual basis. The updated plans require submission via the Commission’s Alert Reporting System for review and approval by the Bureau Chief.
- The amended section 11.21(a)(8) requires that State EAS Plans include a certification by the SECC Chairperson or Vice-Chairperson that the SECC met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update the plan.

3. False Alert Reporting

➤ *False Alert Reporting Provisions (47 CFR §§ 10.520(d)(2), 11.45(c))*

The amended rules enable the Administrator of FEMA as well as state, local, Tribal, and territorial governments to voluntarily report false EAS and WEA alerts transmitted to the public.

- Amended sections 10.520(d)(2) and 11.45(c) allow and encourage the FEMA Administrator or a State, local, Tribal, or territorial government entity that becomes aware of the transmission of a WEA or EAS false alert to the public to send an email to the Commission at the FCC Ops Center at FCCOPS@fcc.gov, informing the Commission of the event and of any details that they may have concerning the event.

4. Repeating Alerts

➤ *Alert Repetition (47 CFR § 11.44)*

The amended rules specify how alert originators can repeat their alert transmissions to

better ensure that the public will have the opportunity to view and/or hear the alert in full.

- Amended section 11.44 clarifies how alert originators can repeat their alerts by releasing the alert anew – i.e., re-originating the alert – at least one minute after the time the alert to be repeated was initially released by the originator, as reflected in the repeat alert’s JJJHHMM (time stamp) header code.
- Amended section 11.44 also states the following factors that should be considered when repeating alerts:
 - (i) Alert originators should consider repeat intervals between the original and re-originated alert that are long enough to account for the time it takes for the original alert to activate across the EAS alert distribution chain.
 - (ii) If the re-originated alert is intended to reflect a valid time period consistent with the original, the valid time period code (the +TTTT header code identified in section 11.31(c)) set for the re-originated alert should be adjusted to account for the elapsed time between the original and re-originated alerts.
 - (iii) Alert originators should be aware that repeating alerts routinely may cause alert fatigue among the public.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The handset display provisions in section 10.11(b), the false WEA and EAS alert reporting provisions in section 10.520(d)(2) and 11.45(c), and the SECC and State EAS Plan provisions in section 11.21, 11.21(a) and 11.21(a)(8) contain new or modified information-collection and recordkeeping requirements. The details relating to the recordkeeping and reporting requirements adopted in the *Order* can be found in Section II of this guide under the Compliance Requirements.

IV. IMPLEMENTATION DATE

The rule changes in the *Order* become effective (meaning they will be integrated into the Code of Federal Regulations) on September 20, 2021; however, the handset display provisions in section 10.11(b), the false WEA and EAS alert reporting provisions in section 10.520(d)(2) and 11.45(c), and the SECC and State EAS Plan provisions in section 11.21, 11.21(a) and 11.21(a)(8) contain new or modified information-collection and recordkeeping requirements, which require approval by the Office of Management and Budget (OMB). Compliance with these rule amendments will not be required until after approval by the OMB. The Commission will publish a document in the *Federal Register* announcing the compliance date(s) for those paragraphs.

V. INTERNET LINKS

A copy of the *Order* is available at: <https://docs.fcc.gov/public/attachments/FCC-21-77A1.pdf>.

A copy of the Federal Register Summary of the *Order* is available at: <https://www.govinfo.gov/content/pkg/FR-2021-08-20/pdf/2021-15175.pdf>.

The WEA rules are available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=1b09def07b6340d2c8a97dcc2aa77322&mc=true&node=pt47.1.10&rgn=div5#se47.1.10_11.

The EAS rules are available at: <https://www.ecfr.gov/cgi-bin/text-idx?SID=1b09def07b6340d2c8a97dcc2aa77322&mc=true&node=pt47.1.11&rgn=div5>.