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SMALL ENTITY COMPLIANCE GUIDE

Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System
FCC 22-75
PS Docket No. 15-94
Released: September 30, 2022

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 and 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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Fax: 1-866-418-0232

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I. OBJECTIVES OF THE PROCEEDING

In the Report and Order (*Order*) in PS Docket No. 15-94, FCC 22-75, the Commission revised the Emergency Alert System (EAS) rules to improve the comprehensibility of EAS alerts issued by federal, state, local, Tribal, and territorial governments and delivered over radio and television.¹ The Commission implemented various changes to the EAS rules to ensure that emergency alerts are more informative, more accessible to people with disabilities (particularly hearing disabilities), easier to understand, and communicate information in plain language. The rules adopted in the *Order* are intended to improve the efficacy of EAS as a system for distributing vital emergency alert information to all Americans in a cost-effective manner, and to increase the public's trust in the EAS system.

The *Order* amends the Commission's rules to require EAS participants² to modify their EAS equipment to: (i) check for a Common Alerting Protocol (CAP) version of a received legacy alert, and to disseminate the CAP version instead of the legacy version if available; (ii) change the national emergency message displayed text from "Emergency Action Notification" to "National Emergency Message"; (iii) change the national alert originator displayed text from "Primary Entry Point" to "United States Government"; (iv) change the national test message displayed text from "National Periodic Test" to "Nationwide Test of the Emergency Alert System"; (v) display a longer standard visual script for legacy-only national test alert messages which adds additional explanation about the origin and nature of the test message, and emphasizing that it is only a test, and (vi) delete the "National Information Center" alert code. The amended Commission rules are consistent with congressional directives, will ensure the superior visual "enhanced text" capabilities of CAP alerts are more frequently distributed to the public, and will improve the overall quality of emergency information the public receives.

II. COMPLIANCE REQUIREMENTS

The *Order* makes several changes to the rules governing EAS to improve its effectiveness and require EAS participants to update the equipment used to receive and distribute EAS alerts.

A. CAP Format and Prioritization Requirements (47 CFR §§ 11.52, 11.55)

1. CAP Polling and Prioritization (47 CFR §§ 11.52(d)(2), 11.55(c), 11.55(c)(2)(i)-(iii), 11.55(d), 11.55(d)(2), 11.61)

The new and amended rules require EAS participants to update their equipment to check FEMA's Integrated Public Warning and Alert System (IPAWS) servers for a CAP alert after receiving a legacy-formatted alert, and to always distribute any available CAP version instead of the legacy version. These rules apply to all state and local area alerts and Required Monthly Test alerts.

¹ *Amendment of the Commission's Rules Regarding the Emergency Alert System*, PS Docket 15-94, Report and Order, FCC 22-75 (Sept. 30, 2022), available at <https://www.fcc.gov/document/fcc-improves-accessibility-and-clarity-emergency-alerts>.

² This includes EAS participants that are radio broadcasters, analog and digital television broadcasters, and operators of direct broadcast satellite, analog, digital and wireless cable systems, and wireline video services. See 47 CFR § 11.1(b).

a. § 11.52 EAS Code and Attention Signal Monitoring Requirements

- Amended section 11.52(d)(2) continues to require EAS participants' EAS equipment to regularly poll the Federal Emergency Management Agency's Integrated Public Alert and Warning System (IPAWS) EAS alert distribution channel to detect and acquire Common Alert Protocol (CAP)-formatted alert messages from the IPAWS system to EAS Participants' EAS equipment.

b. § 11.55 EAS Operation During a State or Local Area Emergency

- Amended section 11.55(c) requires EAS Participants that participate in the State or Local Area EAS, upon receipt of a State or Local Area EAS message that has been formatted in the EAS Protocol and that has event and location header codes indicating that it is a type of message that the EAS Participant normally relays, consistent with the procedures in the State or Local Area EAS Plan, to comply with the rules in sections 11.55(c)(2)(i)-(iii).
- Amended section 11.55(c)(1) requires that prior to effective date of new or amended rules in this section, EAS participants shall continue to follow the procedures in State EAS plans and sections 11.55(c)(3)-(7) of the Commission's rules.
- Amended section 11.55(c)(2) requires EAS participants' operations to comply with the requirements in sections 11.55(c)(2)(i)-(iii) by no later than one year and one month after publication of the *Order* in the Federal Register.
- New section 11.55(c)(2)(i) requires EAS participants that receive both a legacy-formatted alert and a duplicate CAP alert to distribute the CAP-formatted alert to the public instead of the legacy-formatted alert.
- New section 11.55(c)(2)(ii) requires EAS participants to poll IPAWS for any available CAP alert at least once ten seconds after detecting the initial header codes of an incoming legacy-formatted alert and before distributing that legacy-formatted alert to the public.
 - New section 11.55(c)(2)(ii)(B) provides that, if the IPAWS polling conducted after detecting a legacy alert identifies the existence of a duplicate CAP alert, but that CAP alert cannot be fully acquired by the EAS participant in a reasonable amount of time, the EAS participant should distribute the legacy alert to the public.
- Amended section 11.55(d) continues to require EAS Participants that participate in the State or Local Area EAS, upon receipt of a State or Local Area EAS message that has been formatted in the Common Alerting Protocol and that has event and location header codes indicating that it is a type of message that the EAS Participant normally relays, to comply with the rules in sections 11.55(d)(1)-(4).
- Amended 11.55(d)(2) continues to require all EAS Participants to transmit all EAS announcements visually and aurally, as specified in the specific paragraphs of § 11.51(a) through (j) and 47 CFR 73.1250(h) that apply to their respective

industry categories. The rule continues to require EAS Participants providing foreign language programming to transmit all EAS announcements in the same language as the primary language of their programming.

c. § 11.61 Tests of EAS Procedures

- New section 11.61(a)(1)(iv) requires EAS Participants to follow the rules in sections 11.55(c)(1)-(3), which include the new CAP polling and prioritization requirements, upon receipt of an EAS message in the EAS Protocol format with the Required Monthly Test (RMT) event code.

B. EAS Originator and National Alert Code Revisions and Visual Message Display (47 CFR §§ 11.31, 11.51)

1. § 11.31 EAS Protocol

a. Originator Code Revisions (47 CFR § 11.31(d))

The new and amended rules modify or eliminate certain specified authorized alert originator codes and establish the compliance deadlines for EAS Participants to discontinue use of the eliminated codes.

- Amended rule 11.31(d)(1) makes the following revisions:
 - Removes the “National Information Center” (NIC) as an authorized alert originator.
 - Changes the name of the PEP nationwide originator code from “Primary Entry Point System” to “United States Government.”
- New rule 11.31(d)(2) requires EAS participants to discontinue use of the NIC originator code by no later than 13 months after publication of the *Order* in the Federal Register.

b. Authorized Event Code Revisions (47 CFR § 11.31(e))

The new and amended rules require EAS participants to update their equipment to change the displayed alert text to reflect changes to the names of three authorized event codes adopted in the *Order*.

- Amended section 11.31(e) makes the following revisions:
 - Changes the name of the required EAN national event code from “Emergency Action Notification” to “National Emergency Message.”
 - Changes the name of the NPT national alert test event code from “National Periodic Test” to “Nationwide Test of the Emergency Alert System.”

2. § 11.51 EAS Code and Attention Signal Transmission Requirements

a. EAS Alert Code Revision Implementation for Visual Messages (47 CFR § 11.51(d))

The new and amended rules require EAS participants to update their equipment for visual messages associated with EAS alert to reflect originator and event code revisions adopted in the *Order*, implement a standard script visual display for NPT nationwide test alerts that are received in legacy format only, and establish extended compliance deadlines for implementation of EAN alert text changes for cable system operations in certain specified circumstances involving cable system set-top box software changes or replacement.

- Amended rule 11.51(d) continues to require EAS participants to create visual message displays that contain identification of the alert event.
- Amended rule 11.51(d)(3) requires EAS participants to modify the visual display of messages with the codes listed below by no later than one year and one month after publication of the *Order* in the Federal Register.
 - Implement the new PEP originator code name change (“Primary Entry Point System” to “United States Government”).
 - Implement the new EAN event code name change (“Emergency Action Notification” to “National Emergency Message”).
 - Implement the new NPT event code name change (“National Periodic Test” to “Nationwide Test of the Emergency Alert System”).
- New rule 11.51(d)(3)(iii) requires EAS participants to update their equipment to use a standard script visual display for NPT nationwide test alerts which are received in legacy-format only, instead of constructing a visual display from the alert codes for these legacy tests, by no later than one year and one month after publication of the *Order* in the Federal Register.
 - Radio broadcast EAS participants are exempted in the *Order* from compliance with the NPT legacy script requirement.
- New rule 11.51(d)(4) allows EAS participants to display visual messages that contain either the labels for the pertinent codes that were required prior to the rule becoming effective, or in the alternative, to display the newly adopted labels before they are required to do so.
- New rule 11.51(d)(5)(i) extends the implementation deadline to no later than one year and four months after publication of the *Order* in the Federal Register, for cable systems to make the EAN alert text available to subscribers where the set-

top boxes (navigation devices)³ can be updated by software or other changes that do not require replacement of a subscriber's set-top box (navigation device).

- Prior to implementation of the new EAN alert text, the portion of the required visual message displayed to the subscriber corresponding to the EAN Event code must comply with either paragraph 11.51(d)(3)(ii) or 11.51(d)(4)(i).
- New rule 11.51(d)(5)(ii)(A) requires that, in cases where cable subscribers' set-top boxes (navigation devices) need to be replaced in order to display the new text for the EAN code, cable system operators must display the new text once such replacements occur, but in no event later than six years and one month after publication of the *Order* in the Federal Register.
 - New rule 11.51(d)(5)(ii)(B) requires that, during the period prior to the extended implementation deadline of six years and one month after publication of the *Order* in the Federal Register for cable system operators to replace set-top boxes (navigation devices), cable system operators must provide new set-top boxes (navigation devices) that are capable of displaying visual messages with the new EAN code, as required in rule 11.51(d)(1), to subscribers who are deaf or hard of hearing or with a household member who is deaf or hard of hearing, upon request.
 - New rule 11.51(d)(5)(iii) requires that during the period of time when rule 11.51(d)(5)(ii)(A) is in effect, cable system operators must prominently display information on their websites about the availability of EAN alert text compliant set-top boxes for requesting subscribers who that are deaf or hard of hearing or with a household member who that is deaf or hard of hearing.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The rules adopted in the *Order* do not impose any new or modified recordkeeping or reporting requirements.

IV. IMPLEMENTATION DATES

The *Order*, including the amended rules, is effective 30 days after publication of the text of the *Order* or summary thereof in the Federal Register. The effective date for the rule changes in sections 11.31(d)(2), 11.51(d)(3), 11.55(c)(1), and 11.55(c)(2), 11.61(a)(1)(iv) is one year and one month after publication of the text of the *Order* or summary thereof in the Federal Register.

The effective date for the rule changes in section 11.51(d)(5)(i) is one year and four months after publication of the text of the *Order* or summary thereof in the Federal Register. The effective

³ 47 CFR § 11.51(d)(5)(iv). For purposes of paragraph (d)(5), the term "navigation device" means equipment that is located at a subscriber's premises and satisfies the definition of "navigation device" in 47 CFR § 76.1200(c).

date for the rule changes in sections 11.51(d)(5)(ii) and 11.51(d)(5)(iii) is six years and one month after publication of the text of the *Order* or summary thereof in the Federal Register.

V. INTERNET LINKS

A copy of the *Order* is available at:

<https://www.fcc.gov/document/fcc-improves-accessibility-and-clarity-emergency-alerts>.

The EAS rules are available at:

<https://www.ecfr.gov/current/title-47/chapter-I/subchapter-A/part-11>.