

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of	)	
	)	
Review of the Emergency Alert System	)	EB Docket No. 04-296
	)	

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ respectfully submits comments on the Second Further Notice in the above-captioned proceeding.² NAB supports national, annual testing of the Emergency Alert System (EAS), and herein offers several recommendations intended to improve the value of such an exercise.

I. Introduction and Summary

Broadcasters have long been proud partners with federal, state and local government entities in public warning. As a universal, free-over-the air service, local television broadcasters reach 98.9% of the approximately 115.8 million American households.³ Local radio reaches an audience of 236,809,000, or 93% of all Americans on a weekly basis.⁴ Through their ability to reach virtually all Americans, broadcasters are well aware of their unique role in disseminating emergency information. From the

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² Review of the Emergency Alert System, *Second Further Notice of Proposed Rulemaking*, EB Docket No. 04-296 (*rel.* Jan. 14, 2010) (Second Further Notice).

³ See Television Bureau of Advertising citing the Nielsen Company-NTI, data for September of each year, available at:

http://www.tvb.org/rcentral/mediatrendstrack/tvbasics/02_TVHouseholds.asp.

⁴ See Radio Advertising Bureau, *The Radio Marketing Guide*, RADAR Dec. 2009, available at: <http://www.rab.com/public/marketingGuide/DataSheet.cfm?id=1>.

creation of AMBER alerts, which has led to the recovery of over 500 missing and abducted children, to coordinating with state and local emergency planners, to their active participation in the Commission's Communications Security, Reliability & Interoperability Council (CSRIC) and other federal and local emergency preparedness working groups and commissions, broadcasters are committed to serving the public in this context. Through the use of EAS and live news coverage, broadcasters have demonstrated both a personal and professional investment in delivering timely, often life-saving information to their local communities. Among the examples of this commitment to public service are the often heroic efforts of broadcasters to stay on-air to deliver around-the-clock news coverage to their communities during Hurricanes Katrina and Rita, the California wildfires, the Midwest floods, and most recently, the record-setting snowstorms on the East Coast.

Informing the public of national, state and local emergencies is a hallmark of broadcasters' public service, and ensuring a properly functioning EAS and public warning system is in the public interest. NAB therefore supports the proposal to introduce regularly scheduled national testing of the EAS as a means to ensure EAS functionality, and to provide EAS Participants an opportunity to discover any shortcomings or correct any flaws in their systems.⁵ As discussed below, NAB applauds the Commission for its approach to national EAS testing set forth in the Second Further Notice; we endorse most of the proposals therein and offer specific

⁵ EAS Participants include AM, FM and television broadcast stations, cable systems, wireless cable systems, Direct Broadcast Satellite systems, Satellite Digital Audio Radio Services, and others. 47 C.F.R. § 11.1.

suggestions for integrating national tests with the broader transition to next generation EAS.

II. NAB Supports Annual Testing of EAS

The Commission first seeks comment on the appropriate timing of national EAS exercises. Second Further Notice at ¶¶ 26-28. NAB has no objection to the proposal to test the EAS on a yearly basis because we agree with the Commission that regularly scheduled, consistent testing of the system will help produce reliable data on the reliability of the system on an ongoing basis. *Id.* at ¶ 26. Consistent testing of the EAS also will allow participants to build upon the lessons learned from previous experiences to continuously improve the efficiency of testing.

NAB also supports the proposal not to require national testing more frequently than once a year.⁶ *Id.* at ¶ 27. More frequent national testing of the EAS could cause the public to “tune out” the exercises, making it more difficult to gather important public feedback on the exercise. Additionally, the Commission appropriately recognizes that testing the EAS more frequently could cause unnecessary disruption of regularly scheduled programming. *Id.* Overly frequent testing would also unnecessarily burden local stations, especially smaller stations, in light of the effort that will be required of broadcasters to effectuate a national EAS exercise.

In planning national EAS testing, the Commission should also be mindful of the schedule and status of the pending transition to the new Common Alerting Protocol

⁶ NAB supports the proposal to provide EAS participants with two months advance notice of a national EAS exercise as sufficient, and agrees that the annual national EAS test should replace the Required Monthly Test (RMT) for the month in which it occurs. Second Further Notice at ¶¶ 27 – 28. We also endorse the proposal not to set a specific time each year for the national EAS test as a reasonable means to prevent complacency and produce a more realistic picture of EAS functionality. *Id.* at ¶ 28.

(CAP), and the time it will take for all EAS Participants to obtain and install CAP-compliant equipment. For this reason, NAB suggests that the Commission should recognize that it may elect not to conduct a national EAS test in a particular year if deemed appropriate.

Further, NAB suggests that, perhaps before the first national EAS test, the Commission and the Federal Emergency Management Agency (FEMA) consider conducting a comprehensive review of State EAS Plans. Although these plans are required under the Commission's rules to include certain header codes and other content, our understanding is that State EAS Plans may vary widely in accuracy and usefulness. 47 C.F.R. § 11.21. A comprehensive review of all the plans could illuminate obvious discrepancies in certain plans that could hinder the national EAS exercise or highlight localities where more public-private coordination may be needed, and help federal officials discern where to deploy their resources.

With regard to test-related information reporting, the Commission proposes a requirement that EAS Participants record and submit to the Commission certain "test-related diagnostic information for each alert received from each message source monitored at the time" of the national EAS test. Second Further Notice at ¶¶ 29-30. NAB supports collection and reporting of most of the information suggested in the Second Further Notice, including certain data such as whether a station received the national EAS test alert message, what stations it was monitoring, whether it retransmitted that message, and the time when the actual broadcast of the Presidential message initiated. *Id.* However, some of the other information identified by the

Commission raises complex issues, especially if the Commission intends to make the data publicly available.

For instance, the Commission seeks to collect the date and time of the Emergency Action Notification (EAN) messages sent by all message sources that a station monitors. *Id.* This could be impossible for some EAS Participants because most, if not all, EAS decoders are designed in a manner that, once an EAS Participant receives an EAN message from one source, it locks out other sources. Therefore, the participant could not determine or report the receipt of EAN messages from any more than the original source.⁷

Similarly, the Commission proposes to collect data on when stations received Emergency Action Termination (EAT) messages during the national EAS exercise. *Id.* However, this proposal does not account for the situation where an EAT message is not sent. Although the Commission's EAS Handbooks indicate that an EAT message will be sent following an EAN message, in fact, in some instances no EAT message is sent.⁸ This occurred in the recent EAS test in Alaska and is common enough that some stations would be unable to comply with such a requirement.

NAB has found other examples of confusing instructions in the EAS Handbooks. For example, the Handbooks direct stations to read a stand-by script after receiving the EAN; however, this can be impossible because once the EAN is received, their encoder

⁷ Further, the Commission may decide to use some other event code for the national test, such as the National Periodic Test (NPT) code, which may or may not be handled differently from the EAN code depending on the equipment used. No matter which code is selected, the Commission needs to work closely with EAS equipment manufacturers before establishing reporting requirements.

⁸ See, e.g., *EAS 2007 TV (including Digital TV) Handbook*, Federal Communications Commission, at 14, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-278628A5.pdf.

has been seized by the EAN code and only the Presidential message can be broadcast at that point in time.⁹ NAB respectfully asks that, prior to a national EAS test, the Commission should review and revise the EAS Handbooks to clarify any uncertainties that could hinder the national EAS test.

The Commission intends to make all reported data on the national EAS test publicly available. NAB appreciates the need for government to collect and analyze feedback on the national EAS test, although we question the appropriateness of sharing EAS Participant-specific data with entities beyond the Commission's federal partners and authorized emergency management officials. *Id.* at ¶ 30. We assume that the Commission and FEMA require data on the conduct of the EAS test for purposes of analysis on a national or perhaps state or regional basis. The Commission should also be able to pinpoint trends in mistakes or system failures down to the community or even station level, so that it can assist EAS Participants to correct any flaws. However, NAB is concerned that making EAS Participant-specific data publicly available, beyond the Commission's Federal partners and other authorized personnel, could have unintended consequences.

The EAS is a complex service in which private firms must rely on public entities, and *vice-versa*. There are several points in the process where correctible mistakes may occur. In cases where the cause of failure in the system can be precisely identified, the Commission should carefully consider whether security or similar sensitive interests would counsel against widespread dissemination of such specific information, including EAS Participant-specific information. NAB additionally notes that in some cases, due to

⁹ *Id.* at 13.

the complexity of the system and its dependence on multiple entities, it can be extremely difficult to ascertain the precise cause of failure. In cases such as these, publication of data on specific participants could create unnecessary public concern as well as unnecessary tension among the various entities participating in the process. Overall, NAB submits that the Commission can perform its analysis of the annual EAS tests just as well if only national or statewide trend data, and not EAS Participant-specific data, is publicly released.¹⁰

III. The Commission Should Consider Equipment Issues Raised in the Proceeding in Conjunction with the Upcoming Broader Transition to Next-Generation EAS

Finally, the Commission raises a number of questions relating to the specifics of EAS equipment operation, including how equipment functions when receiving an EAN message, and how various units may have differing requirements and expectations regarding the FIPS codes (location codes for national level messages). *Id.* at ¶ 32. The Commission cites a report by the Primary Entry Point Administrative Council, Inc. (PEPAC) which analyzes that issue and highlights some of the challenges here, not the least of which is that broadcasters have EAS equipment made by a variety of manufacturers and purchased over a long period of time, during which the FCC's EAS rules have changed.¹¹

¹⁰ We also question the need to require EAS Participants to divulge the make and model of their EAS equipment. Second Further Notice at ¶ 29. As long as an EAS Participant is using Commission-certified EAS equipment, NAB sees no need for Participants to reveal which brand of equipment they are using.

¹¹ Second Further Notice at ¶ 32 note 48, citing Primary Entry Point Administrative Council, Inc., Encoder/Decoder Closed Circuit Test Report, August 8, 2008 (2008 PEPAC Report).

Given these known issues and documented differences in deployed EAS equipment, it is a virtual certainty that some broadcasters will need to upgrade or replace existing EAS equipment to ensure that it functions optimally during a national test. Further complicating the situation is that broadcasters already face a mandated requirement to upgrade their EAS equipment so as to be able to "...accept CAP-based alerts 180 days after the date that FEMA publishes the applicable technical standards for such CAP alerts."¹² Consequently, depending upon the Commission's actions in this proceeding, some broadcasters face the possibility of having to upgrade or modify their EAS equipment twice in the near future.

In the near term, NAB urges the Commission to require EAS equipment manufacturers to develop and publicize information on any modifications needed to EAS equipment so as to allow broadcasters to successfully participate in a national EAS exercise. NAB understands that in some instances, all that is required is a simple modification, sometimes called a "filter," which can be implemented by a broadcaster using controls on the front-panel display of the EAS equipment. If broadcasters are to be expected to undertake steps like this, they need to have relatively easy and timely access to the required instructions.

NAB also sees an opportunity for synergy between the requirements of an EAS national test and the already-underway process of upgrading broadcasters to a next generation EAS delivery system, which could serve the goals of both programs and with the added advantage of obviating the need for a dual upgrade of broadcast equipment.

¹² Review of the Emergency Alert System, *Second Report and Order*, EB Docket No. 04-296, 22 FCC Rcd 13275, 13288 (2007). According to the IPAWS program office, the current anticipated start of the 180-day time period is 3Q 2010, which would result in all broadcasters having to comply with this rule in 1Q 2011.

Working with FEMA and EAS equipment manufacturers, the FCC should determine the specific EAS equipment certification requirements necessary for all equipment to be able to successfully transmit an EAN message nationwide, including the requirements regarding EAN messages and FIPS codes discussed in the Second Further Notice. *Id.* at ¶ 32. These certification requirements should be integrated into the CAP-EAS conformance process which is being administered by Eastern Kentucky University under contract to FEMA.¹³

Alternatively, the Commission could consider waiting until the 180-day time period available for broadcasters to become CAP-compliant expires before performing a national test. Assuming that the required CAP-compliant EAS equipment has passed the FEMA CAP-EAS testing process (including those additional requirements included as a result of FCC requirements for successful transmission of nationwide EAN messages), broadcasters should at that point be virtually assured of being able to properly transmit EAN messages for a national test.

¹³ This test program was announced publicly in September 2009. FEMA selects Eastern Kentucky U to operate conformity testing lab for CAP products, RBR.Com TVBR.com (Sep. 17, 2009), available at www.rbr.com/radio/ENGINEERING/95/17098.html.

IV. Conclusion

Accordingly, NAB respectfully supports the proposal for a national, annual test of the Emergency Alert System, and offers several suggestions above for ways to improve the utility of such an exercise.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jane E. Mago".

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March 15, 2010