

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

In the Matter of)	
)	
Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System)	PS Docket No. 15-94
)	
Wireless Emergency Alerts)	PS Docket No. 15-91

**COMMENTS OF THE
NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ submits these brief comments on the above-captioned Notice of Proposed Rulemaking regarding the Emergency Alert System (EAS).² Specifically, NAB agrees with the Commission's proposed approach to enabling duplicate EAS warnings, consistent with Section 9201(d) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021.³

For over 60 years, EAS and its predecessors have been the primary outlet for the President to communicate with the public during emergencies, and during that time local radio and television broadcasters have served as the backbone of the EAS system. Broadcasters are particularly proud of their role in creating AMBER Alerts in 1996 and distributing alerts that have led to the recovery of more than 940 missing and abducted

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

² *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System, Wireless Emergency Alerts*, PS Docket Nos. 15-94 and 15-91, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 21-36 (rel. Mar. 19, 2021) (Notice).

³ Pub. L. 116-283, 134 Stat. 3388 (NDAA21), § 9201(d). The NDAA21 includes the Reliable Emergency Alert Distribution Improvement (READI) Act, in which the relevant provisions were initially adopted.

children.⁴ In addition, broadcasters are first informers, having been formally designated as “essential service providers” under the Consolidated Appropriations Act, 2018 (amending the Stafford Act), which empowers radio and television stations to access disaster areas.⁵ Broadcasters deliver timely, often life-saving information to their local communities, both over-the-air and through other platforms such as station websites and mobile apps, and their extremely popular accounts on social media websites. Given broadcasters’ ability to reach virtually all Americans, especially when other communications platforms fail, radio and television stations play an essential role in the distribution of public alerts, as well as critical information before, during, and after an emergency.

I. The FCC’s Proposed Approach to Enabling Repeat EAS Messages is Reasonable and Efficient

The NDAA21 requires the Commission to consider ways to modify the EAS system to provide for repeating EAS alerts while an initial alert remains pending. The scope of any new procedure practice shall apply to warnings that are issued by the President, the Federal Emergency Management Agency (FEMA) Administrator, or other entities deemed appropriate by the FCC and FEMA, and concern national security events, as opposed to more typical warnings like weather and AMBER alerts.⁶

As the FCC observes, the EAS system is already designed to allow for repeating alerts by any authorized alert originator. If an alert originator reissues an EAS alert at least one

⁴ The America’s Missing: Broadcasting Emergency Response (AMBER) Alert Program is jointly administered by the National Center for Missing & Exploited Children (NCMEC), broadcasters, transportation agencies, law enforcement agencies, and the wireless industry. Statistics available at <https://www.missingkids.org/footer/media/keyfacts>, (last visited April 13, 2021).

⁵ 42 U.S.C. § 5189e.

⁶ NDAA21 § 9201(d).

minute after initiation of the original alert, as reflected in the alert's time period stamp,⁷ the subsequent alert will not be rejected as a duplicate by broadcasters and other EAS Participants that are monitoring for EAS alerts.⁸ The only caveat is that every duplicate alert will generate its own unique time period stamp, thereby extending the valid time period for the warning beyond the intended expiration of the initial alert. Therefore, if an alert originator wants to retain the initial alert's original time period in a duplicate message, the originator would need to revise the time stamp in the duplicate to reflect the elapsed time between the initiation of the original warning and when the repeat message is sent. Otherwise, the alert could be repeated in perpetuity. However, some alert originators may be unaware of this process.

Accordingly, the FCC proposes to implement the NDAA21 by merely modifying its rules to clarify these steps for originators, and specifying that any repeat alert that is released at least one minute after the initial alert, as reflected in the duplicate's time stamp, shall not be rejected as a duplicate.⁹ NAB has no objections to this approach. We agree with the FCC that this mechanism fulfills the legislation's requirements.¹⁰ We further agree with the FCC's conclusion that, although this approach will also facilitate repeated EAS alerts for non-national events outside the scope of the NDAA21, such as weather, AMBER and disaster alerts, providing this capability might be a valuable option for alert originators in

⁷ Notice at ¶ 42 citing 47 CFR § 11.31 (c).

⁸ *Id.* citing 47 CFR § 11.33(a)(10).

⁹ *Id.* at ¶ 43 and Appendix A.

¹⁰ *Id.* at ¶ 43.

certain situations and is not specifically foreclosed by the Act. As the FCC states, maximizing the usefulness of the EAS system will maximize public safety.¹¹

NAB appreciates the simplicity of this approach. We recognize that the FCC could have proposed any number of more complex, prescriptive methods for implementing the Act. However, the FCC has wisely struck upon an efficient proposal that fits within the existing regulatory scheme, leverages the current architecture of EAS, and is not expected to require costly upgrades to broadcasters' existing EAS equipment and system.¹²

We also support the Commission's view of the Act as not mandating new rules that enable the automated repetition of EAS alerts for national security events.¹³ Although this capability could possibly be implemented in the software already used by alert originators to issue alerts, NAB understands that introducing automated functionality into the EAS encoder/decoder devices broadcasters currently use could be burdensome. Modifying these boxes to enable automated repeats of EAS messages is likely a complex, potentially costly endeavor. Moreover, as the FCC acknowledges, alert originators should have a convenient way to repeat alerts at their discretion under the proposal above, and enabling automated repetition of alerts could lead to message fatigue on the part of viewers and listeners.¹⁴ Broadcasters are well aware that members of the public sometimes tune out EAS alerts, and

¹¹ *Id.* NAB is agnostic on whether the FCC should adopt a new a new alert originator code or event code to implement this proposal. On the one hand, doing so could help highlight that a warning has been issued by a national-level authority and relates to a national-level threat. On the other hand, any new event code would still lack specificity as to the actual threat and possibly impose a cost on EAS Participants. and could create confusion when used for events that currently fall under other event codes. *Id.* at ¶¶ 45-48.

¹² If the costs of implementing this approach turn out to be more burdensome than anticipated, NAB would encourage the FCC to provide flexibility to smaller broadcasters that may need additional time or consider requests for a waiver from any new requirement.

¹³ *Id.* at ¶ 44.

¹⁴ *Id.* at ¶ 45.

facilitating the automated repeat of messages would only exacerbate this problem. For these reasons, NAB submits that automated repetition of EAS alerts is neither necessary nor beneficial at this time.

In the same vein, we agree with the FCC's judicious approach to Emergency Action Notification (EAN) alerts, which would allow only the President or the President's authorized designee to repeat an EAN alert, but not require EAS Participants' equipment to automatically repeat such alerts.¹⁵ As noted by the FCC, doing so would likely necessitate significant programming changes to many models of encoder/decoder boxes.¹⁶ Timing issues could also impede the President's ability to repeat an EAN alert, given the lack of synchronicity between alerts issued through the legacy EAS system and those formatted in the Common Alerting Protocol and issued through IPAWS. In addition, Presidential alerts can vary in duration or be very long, and there is a variety of situations that could cause the President to issue an alert. As a result, we agree that imposing a specific repeat interval for EAN messages would be impractical and possibly undermine the President's ability to react to an unfolding emergency.¹⁷

¹⁵ *Id.* at ¶¶ 49-50.

¹⁶ *Id.* at ¶ 50.

¹⁷ *Id.* at ¶ 53.

II. Conclusion

Accordingly, NAB has no objections to the Commission's approach for facilitating repetitive EAS messages as proposed in the Notice.

Respectfully submitted,

Handwritten signature in black ink, appearing to read "Rick Kaplan" and "Larry Walke".

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