

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

I. INTRODUCTION AND SUMMARY

The National Association of Broadcasters (NAB)¹ hereby comments on the above-captioned Notice of Proposed Rulemaking regarding the Emergency Alert System (EAS).² America's broadcasters have served as the backbone of the EAS system for over 60 years, and given our ability to reach virtually all Americans, especially when other communications platforms fail, play a critical role in the distribution of public alerts.³ NAB supports the Commission's goal in the Notice to improve the effectiveness of the EAS system, particularly for persons who are deaf or hard of hearing.⁴

Specifically, NAB has no significant objections to the proposals intended to improve the clarity and accessibility of nationwide EAS tests. Requiring video service EAS Participants to use a predetermined script for legacy-based tests and changing the terminology of Common Alerting Protocol (CAP)-based tests seem like reasonable approaches. We also agree that

¹ The National Association of Broadcasters (NAB) is the nonprofit trade association that advocates on behalf of free 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*, Notice of Proposed Rulemaking and Notice of Inquiry, PS Docket No. 15-94 (*rel. Dec. 15, 2021*) (Notice or NOI).

³ Comments of NAB, PS Docket Nos. 15-94 and 15-91, at 2 (Apr. 20, 2021).

⁴ Notice at ¶¶ 1 and 9.

increasing the use of CAP alerting is a worthwhile endeavor, given its superior capabilities to provide more information that can enhance the accessibility of EAS messages.⁵ That said, NAB has two concerns. First, EAS Participants will require sufficient lead time to implement both of these proposed changes, especially the approach to expanding CAP, which will depend on the availability of software upgrades that allow broadcasters to automatically poll the Integrated Public Alert and Warning System (IPAWS) for a CAP version of legacy-based State, Local or National Weather Service (NWS) alerts, and process the CAP version instead of the legacy-based alert.

Second, NAB understands that the proposals in the Notice are intended to apply only to video service EAS Participants, such as broadcast television stations. The FCC states this explicitly for the proposed use of a predetermined script for the nationwide EAS tests.⁶ The Notice also specifies that the purpose of the CAP-related obligation is to promote the ability of EAS alerting to provide matching visual and audio messages, to increase the clarity of alerts for persons who are deaf and hard of hearing.⁷ Thus, it seems inappropriate to impose the same obligation on audio-only EAS Participants, at least on the same terms as video service providers, as they do not contribute to the visual accessibility of EAS messages.

II. NAB SUPPORTS IMPROVING THE ACCESSIBILITY OF NATIONWIDE EAS TESTS

The Notice describes the architecture of the legacy EAS system, and the limits it places on the information conveyed in an EAS alert.⁸ Essentially, the visual crawl of an EAS message is constructed automatically from the EAS fixed header codes chosen by an alert originator for

⁵ *Id.* at ¶ 18.

⁶ *Id.* at ¶ 10.

⁷ *Id.* at ¶¶ 18 -19.

⁸ *Id.* at ¶¶ 3-4 and 6.

a particular event, while the alert originator separately creates the audio message to include whatever information they deem appropriate. Thus, the texts of the aural and visual components sometimes do not match, and the audio message may contain useful information that is not accessible in a crawl to persons who are deaf or hard of hearing. An alert originator can prevent this issue by creating an aural message that matches the barebones information in the visual crawl, although doing so could deprive hearing individuals of information that could be included in the aural message.

On the other hand, CAP-based alerts are transmitted over Internet Protocol (IP) links and can convey more information than legacy alerts, such as picture and audio files and URL links. CAP also allows an alert originator to include a transcription of the audio EAS message in the enhanced text field, which must be used by EAS participants to construct the visual crawl of the EAS message. Thus, an originator can choose to ensure that the audio and visual messages in a CAP alert match and accessible to persons who are deaf or hard of hearing.⁹

The Commission proposes two changes to enable alert originators to clarify the visual message accompanying nationwide EAS tests. For EAS-based tests containing the NPT event code with the “All-U.S.” location code, the Commission proposes to require that video service EAS Participants use a scripted text for the visual crawl, instead of automatically constructing the crawl from the EAS header codes.¹⁰ For CAP-based nationwide EAS tests, the FCC proposes to change the terminology of the relevant header code (NPT), which is used to construct the test’s visual crawl, from “National Periodic Test” to “Nationwide Test of the Emergency Alert System.”¹¹ The FCC further seeks comment on whether to change the

⁹ *Id.* at ¶¶ 8-9.

¹⁰ *Id.* at ¶ 11.

¹¹ *Id.* at ¶ 12.

terminology for the PEP originator code used in a nationwide EAS test from m “Primary Entry Point system” to “National Authority.”

NAB has no material objections to either proposal. Using a predetermined script will provide a clearer description of the test than a strict translation of the header code elements. This approach will also allow for a uniform visual message across different EAS devices, and facilitate the ability of the nationwide test message originator (i.e., the FEMA IPAWS PMO) to ensure that the audio component of the message matches the visual component.¹² NAB presumes that the test message originator will be responsible for inserting the correct start and end times for the test, allowing video service EAS Participants to simply automatically process and relay the test as usual. NAB urges the FCC to specifically clarify that this new obligation will apply only to video service EAS Participants. There is no reason to burden audio service EAS Participants with a new requirement, although some audio service EAS Participants may follow suit voluntarily for the sake of message consistency.

The proposal to change the public-facing terminology of CAP-based nationwide tests also seems reasonable. Such an approach will better describe the nature of the test to members of the public who are unfamiliar with the currently used term “National Periodic Test.” NAB also supports the FCC’s decision to change only the terminology for the nationwide test event code (NPT), but not the code itself. This method is consistent with feedback on the FCC’s recent inquiry into changing the EAN event code from “Emergency Action Notification (National Only)” to the more comprehensible “NEM” for “National Emergency Message.”¹³ Commenters there explained that changing only the terminology of an event code would be a

¹² *Id.* at ¶ 13.

¹³ *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System; Wireless Emergency Alerts*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, PS Docket Nos. 15-94 and 15-91, at ¶ 49 (*rel.* June 17, 2021).

simpler, lower risk transition than changing the underlying code. They also explained that this process can be implemented in a future software update of EAS equipment, does not require a specific transition date, and is more easily implemented by the range of EAS Participants.¹⁴

Thus, NAB supports changing the terminology for the NPT code as proposed, provided the FCC allows sufficient lead time for EAS equipment manufacturers and participants to implement the change in a regularly scheduled software update. NAB submits that an appropriate deadline for requiring this update is at least one year from the effective date of a final Commission decision on this issue.

III. NAB SUPPORTS THE FCC'S PROPOSED APPROACH TO INCREASING USE OF CAP-ALERTING, SUBJECT TO CERTAIN CONDITIONS

The FCC seeks to promote use of CAP EAS alerting through a requirement that EAS Participants, when receiving a legacy-based EAS state or local alert, poll the IPAWS CAP EAS server to verify if there is a CAP version of the same alert, and if so, process the CAP version instead.¹⁵ Currently, EAS Participants may process whichever version of an EAS alert arrives first. However, among other superior capabilities, CAP facilitates an alert originator's ability to initiate an alert with enhanced text that generates a visual crawl which matches the aural message. Thus, the FCC seeks to increase use of CAP alerting so as to make it more likely that EAS alerts are broadcast with identical visual and audio components, which are more accessible to persons who are deaf or hard of hearing.¹⁶

¹⁴ Comments of Sage Alerting Systems, Inc. at 3, PS Docket Nos. 15-94 and 15-91 (Oct. 18, 2021); Comments of Digital Alert Systems, Inc. at 8, PS Docket Nos. 15-94 and 15-91 (Oct. 18, 2021).

¹⁵ Notice at ¶ 18.

¹⁶ *Id.*

Television broadcasters already go above and beyond the FCC's requirements to provide timely, accurate emergency,¹⁷ and certainly support initiatives to help improve the accessibility of emergency warnings. We agree with the Notice that relaying EAS alerts with matching crawls and audio should improve public safety by allowing alert originators to create alerts with longer, more informative audio messages that can still be fully transcribed into visual crawls.¹⁸ In general, NAB agrees that the FCC's proposed approach to increasing the use of CAP is reasonable, subject to certain conditions and clarifications.

First, the FCC must confirm that a mandate to automatically check for and process CAP alerts can be effectuated through a software upgrade that is simple and seamless, in all devices, and at no cost to EAS Participants. NAB understands that at least one of the most widely used EAS manufacturers has this capability,¹⁹ but is not aware of whether or when other devices would be able facilitate this obligation. NAB strongly encourages the FCC to link implementation of this change to the availability of a sufficient software upgrade to their EAS device, and clarify that EAS Participants will not face any risk of enforcement for failing to implement this change because the required software upgrade is not available.

Relatedly, NAB urges the Commission not to adopt a date certain on when all EAS Participants must implement the change. The more efficient approach is for the FCC to

¹⁷ 47 CFR § 79.2; Holly Bailey, *After Ida, New Orleans Residents Find a Source of Hope: The "Hurricane Station,"* The Washington Post (Sep. 8, 2021), available at <https://www.washingtonpost.com/nation/2021/09/08/new-orleans-ida-radio-wwl/>; Paul Greeley, *How Austin's KTBC Survived Covering Extreme Cold*, TVNewsCheck (Feb., 23, 2021), available at <https://marketshare.tvnewscheck.com/2021/02/23/how-austins-ktbc-survived-covering-extreme-cold/>.

¹⁸ Notice at ¶ 19.

¹⁹ Comments of Gary E. Timm at 3, PS Docket No. 15-94 (Mar. 4, 2022).

establish a deadline with a long enough runway to allow EAS Participants to implement the change through a regularly scheduled software upgrade from their device manufacturer.

Second, the FCC proposes to apply this new obligation to check for CAP alerts only to local and state EAS alerts, which include alerts issued by the National Weather Service (NWS).²⁰ Indeed, the vast majority of EAS alerts received by broadcasters are issued by NWS.²¹ However, as the FCC notes, weather emergencies are not passed to broadcasters via the FEMA IPAWS Atom feed. They are currently blocked per NWS request due to unrelated technical issues.²² Thus, when EAS Participants receive a legacy-based EAS alert from NWS, and their device checks IPAWS for a CAP version of the alert, no such CAP version will exist. Although NAB appreciates the FCC's forethought in seeking to increase the accessibility of EAS alert crawls, the fact that the proposed new process will not include weather-related alerts issued by NWS may frustrate the realization of this goal for the foreseeable future. This further supports a delay in implementation. For example, there may be unintended consequences of a multi-step implementation, or confusion caused by only a small percentage of EAS alerts including matching visual crawls and audio messages. NAB recognizes that a CSRIC Working Group has examined and made recommendations regarding CAP-based NWS alerts via IPAWS,²³ but we are not aware of any specific progress so far towards resolving this issue. NAB further recognizes that the resolution of the IPAWS/NWS

²⁰ Notice at ¶ 2.

²¹ *Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief; Randy Gehman Petition for Rulemaking*, Fifth Report and Order, 27 FCC Rcd 642, 646 (2012).

²² Notice at ¶ 18 note 44.

²³ CSRIC VII, Working Group 1, *Report on Recommendations To Resolve Duplicate National Weather Service Alerts* (March 10, 2021) available at <https://www.fcc.gov/about-fcc/advisory-committees/communications-security-reliability-and-interoperability-council-vii>.

gap is beyond the purview of the FCC. Nevertheless, until such time as it's resolved, and similar to above regarding a software upgrade, NAB submits that any deadline for compliance with the proposed mandate should be linked to a resolution of this gap in CAP alerting. We submit that a deadline of at least one year from the effective date of a final order in this proceeding should be sufficient, assuming that is enough time to resolve the concerns regarding software upgrades and NWS EAS alerts.

Third, NAB urges the FCC to confirm and clarify that none of the proposals in the Notice will lead to reduced government commitment to legacy-based EAS alerting. Legacy EAS is more robust and survivable in the event of a significant national emergency because, unlike CAP alerting, legacy EAS is not dependent on Internet access or affected by the loss or congestion of cellular and IP services during a storm. In addition, FEMA has physically hardened a substantial percentage of the most important facilities in the legacy EAS system, Primary Entry Point stations,²⁴ to help ensure the dissemination of a Presidential EAS alert in the event of a catastrophic emergency. Thus, legacy-based EAS alerting provides critical redundancy to the nation's emergency warning system. Finally, broadcasters and other EAS Participants have invested heavily in equipment and devices required to receive, process, and relay legacy-based alerts. NAB submits that maintaining the support and dedication of all stakeholders to legacy alerting is important to the safety of Americans' life and property during emergencies, and would strongly oppose any FCC proposals that could, unintentionally or not, diminish the effectiveness of the legacy-based backbone of EAS.

²⁴ See, e.g., *FEMA and WBZ NewsRadio Boston to Unveil New Emergency Broadcast Studio*, FEMA Press Release (Oct. 15, 2021), available at <https://www.fema.gov/press-release/20220214/fema-and-wbz-newsradio-boston-unveil-new-emergency-broadcast-studio>.


Finally, the entire Notice is framed in terms of enhancing the accessibility of EAS alerts for persons who deaf or hard of hearing through the dissemination of more alerts with matching visual crawls and audio messages.²⁵ Accordingly, NAB presumes that the proposed obligation to poll for CAP versions of legacy alerts is not intended to apply to audio service EAS Participants, including radio broadcasters. There seems to be no reason to force radio stations to upgrade equipment or otherwise change their current practices, given the FCC's purpose. Nonetheless, if the FCC can justify why the forced CAP polling mandate should also cover radio stations, NAB urges the FCC to extend radio broadcasters a lengthier period for implementation, such as two years from the effective date of a final order in this proceeding. This will allow radio broadcasters sufficient time to consider methods for compliance suitable to their specific EAS equipment and process.

IV. CONCLUSION

Accordingly, NAB generally supports the FCC's proposed measures for increasing use of CAP alerting in the Notice, subject to the clarifications and conditions described above.

Respectfully submitted,

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²⁵ Notice at ¶ 1.