

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 11

[PS Docket No. 15–94; FCC 22–75; FR ID 110632]

### The Emergency Alert System

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communication Commission (the “FCC” or “Commission”), implements changes to its rules governing the Emergency Alert System (EAS) to improve the clarity and accessibility of EAS messages distributed to the public.

**DATES:** Effective December 12, 2022. The incorporation by reference of certain publications listed in the rule was approved by the Director as of April 23, 2012.

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**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Report and Order (*Order*) in PS Docket No. 15–94, FCC 22–75, adopted on September 29, 2022 and released on September 30, 2022. The full text of this document is available at <https://www.fcc.gov/document/fcc-improves-accessibility-and-clarity-emergency-alerts>.

#### Accessible Formats

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#### Synopsis

##### Introduction

1. To improve the clarity and accessibility of alerts, the Commission adopts rules to facilitate the increased use of the internet Protocol-based Common Alerting Protocol (CAP) format for certain types of EAS alerts. CAP-based alerts typically provide more information than the corresponding alerts delivered in legacy format. Therefore, in this Report and Order, the Commission directs EAS Participants to check whether certain types of alerts are available in CAP format and, if so, to transmit the CAP version of the alert rather than the legacy-formatted version. The Commission also revises the prescribed text that EAS Participants

use to identify certain alerts regarding national emergencies and to announce EAS tests by eliminating technical jargon and replacing it with plain language terms that will be more easily understood by the public.

#### A. Transmitting More Alert Messages in CAP Format

2. The Commission’s rules currently permit, but do not require, EAS Participants to check for CAP-format versions of state and local area alerts at the time they receive legacy EAS-format alerts and, if the same alert is available in both formats, to transmit the CAP version rather than the legacy EAS version. The Commission is now requiring EAS Participants, upon receiving a legacy EAS alert message, to check whether a CAP version of the same alert is available on the Federal Emergency Management Agency’s (FEMA) internet-based platform known as the Integrated Public Alert and Warning System (IPAWS) by polling the IPAWS feed for CAP-formatted EAS messages. If a CAP version is available, the Commission requires EAS Participants to transmit the CAP version rather than the legacy version. In addition, to allow sufficient time for a CAP version to appear without unduly delaying transmission of the alert, the Commission requires EAS Participants not to transmit an alert in legacy format until at least 10 seconds after receiving its header codes unless they confirm by polling the IPAWS feed that no matching CAP version of the message is available. As discussed below, this requirement applies only to valid alert messages relating to event categories and locations for which the EAS Participant normally transmits such alerts pursuant to the State EAS Plan, but does not apply to national emergency messages, messages associated with national tests of the EAS, or required weekly test messages.

3. The Commission requires that, if an EAS Participant has received both a legacy EAS version and a CAP-formatted version of the same alert, it must transmit the CAP version, not the legacy EAS version. In other words, it must “prioritize” the CAP message. CAP-formatted alerts can relay much more data than legacy alerts, which can relay only an audio message and a limited amount of encoded data. EAS Participants may receive legacy and CAP alerts at different times, however, and under the current rules, if an EAS Participant receives the legacy version of an alert first, it might process that version and transmit it to the public even if a CAP version of the same alert arrives seconds later, leaving the

potentially expanded content in the CAP version unused.

4. Requiring EAS Participants to check for CAP-formatted versions of alerts and use them, if available, will increase the proportion of alerts distributed to the public that include enhanced information. Several commenters support mandatory CAP polling and prioritization for this reason. The Accessibility Coalition, for example, comments that “[g]iven the greater capability of the CAP-based alerts, . . . a CAP-based alert should be checked for and utilized when possible . . .” NCTA agrees that “[e]xpanding the use of triggered CAP polling as proposed is a positive step toward providing all Americans more reliable and accessible emergency alerts.” Moreover, as Gary Timm points out, the requirement the Commission is adopting would “make good on the Commission’s promise to the Commission’s emergency management partners” that CAP-formatted alerts will “improve the messaging available through the EAS.”

5. The Commission is not persuaded by the arguments of commenters that oppose mandated CAP polling. For example, Donald Walker argues that mandating CAP polling “would likely impose significant monetary and time costs for development on equipment manufacturers as well as . . . EAS Participants,” especially broadcasters, and that “the public safety benefits of having matching audio and text crawls [would not] outweigh[] the burden that would be placed on the industry.” However, Walker fails to provide any factual information to support his assertions regarding the costs or time to implement mandatory CAP polling and prioritization, and Section III.E below explains the Commission’s basis for finding the costs will likely be relatively low. Walker also ignores the significant public safety benefits that the increased clarity of the CAP-formatted visual crawl will provide for people who are deaf and hard of hearing (even if the text does not precisely match the audio version of an alert), and he fails to account for the benefits of more informative readable text on the screen for other viewers who may rely on both the visible scroll and the audible versions of alert messages to fully understand them.

6. Similarly, the Commission is not persuaded by NAB and other parties who argue against mandatory CAP polling and prioritization based on the fact that the National Weather Service (NWS) does not currently distribute alerts in CAP format over IPAWS due to concerns about issuing duplicative

alerts for the same weather emergency. NAB contends that “[a]lthough 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.” However, the Communications Security, Reliability, and Interoperability Council (CSRIC), an FCC advisory committee, recently analyzed the concerns about duplicative alerts that, until now, have led NWS to refrain from distributing CAP-formatted alerts, and identified and evaluated several potential changes that could ameliorate or resolve those concerns. The CSRIC recommendations could provide a basis for NWS to begin issuing CAP-formatted alerts over IPAWS in the foreseeable future, in which case the rule the Commission adopts today would require EAS Participants to transmit them.

7. Even if NWS does not change its approach in the near term, there are thousands of state and local alert originators that distribute EAS alerts in CAP format, covering numerous non-weather emergencies that pose harm to human health and property. The Commission does not see the logic of foreclosing the benefits to public safety of increased CAP usage for these state and local alerts just because NWS does not distribute CAP alerts at present. The Commission also disagrees with NAB’s suggestion that mandatory polling might result in “unintended consequences” or “confusion caused by only a small percentage of EAS alerts including matching visual crawls and audio messages” NAB fails to explain what types of unintended consequences it is referring to, and the Commission finds its assertions about potential confusion to be entirely speculative. On the contrary, the Commission concludes that mandating CAP polling will reduce the potential for confusion and enhance public safety by ensuring a seamless transition at whatever point NWS decides to begin issuing CAP alerts over IPAWS.

8. *Timing of Mandatory CAP Polling.* In the *Accessibility NPRM*, the Commission proposed requiring CAP polling upon receipt of a state or local legacy alert, but sought comment on whether “EAS Participants [should] be allowed some minimum time frame, for example, 5–15 seconds,” to account for delays in the CAP message becoming available. Based on concerns raised in the record about the Commission’s proposal to require polling at the time the legacy alert is received, the Commission modifies its proposal to

include a brief timing delay. Specifically, the Commission requires that, when an EAS Participant receives a legacy-format alert that (i) is valid, (ii) covers a type of event and a geographic area for which the EAS Participant normally transmits alerts to the public pursuant to its State EAS Plan (but excluding messages with the EAN, NPT, or RWT event codes), and (iii) is not a duplicate of a CAP-formatted message it has already received, the EAS Participant must poll the IPAWS feed for a CAP version of the legacy alert at least 10 seconds after detection of the legacy alert’s initial header code. For this purpose, two EAS messages are considered “duplicates” or “versions” of the same alert if the originator codes, event codes, location codes, and date-time codes in the headers of both messages are all identical, and the valid time period codes in the headers cover approximately the same periods of time, with allowances for the way CAP and legacy messages express valid time periods differently. The 10-second waiting period for CAP polling does not apply if the EAS Participant has already acquired the CAP version through polling the IPAWS feed prior to the 10-second threshold. In such instances, the EAS Participant need not poll IPAWS again or wait 10 seconds to send the alert, which must be sent in CAP format.

9. The parties’ comments persuade us that requiring CAP polling immediately upon detection of a legacy alert, as the Commission originally proposed, would be counterproductive. When an alert originator sends an alert in both CAP and legacy formats, the record establishes that in many cases the CAP version will not appear on the IPAWS server until a few seconds after EAS Participants have received the legacy alert header code. Accordingly, a rule requiring immediate polling would fail to detect many CAP alerts by polling too early. By delaying the required polling until at least 10 seconds after receipt of the legacy alert’s initial header code, the Commission allows sufficient time for the CAP version of the alert to appear and be retrieved, and the Commission significantly reduces the risk that an EAS Participant will send a legacy alert when a CAP version is available.

10. The Commission agrees with the Accessibility Coalition that, since “time is of the essence in emergencies,” the CAP polling rule should not cause significant delays in transmitting alert content to the public. The record indicates that most EAS devices require at least 15 seconds to process and transmit a legacy alert after the legacy header code is first detected. Thus, requiring EAS participants to wait 10

seconds before polling does not delay the normal time sequence for transmission of a legacy alert if no CAP version of the alert is available. With respect to Gary Timm’s suggestion that we “set a minimum CAP Prioritization Seek Time of 5 or 10 seconds . . .,” the Commission finds five seconds to be unnecessarily short, given that most EAS devices require at least 15 seconds to process and transmit a legacy alert after the legacy header code is first detected, and could preclude detection of matching CAP messages in a number of cases when more time was available for the CAP alert to become available.

11. The Commission recognizes that setting a minimum waiting period of more than 10 seconds would further “increase the likelihood that a matching CAP message will be found.” However, the Commission is concerned that requiring a waiting period longer than 10 seconds risks unduly delaying the transmission of alerts. At the same time, the Commission’s rule gives EAS Participants flexibility to wait longer than 10 seconds to poll for CAP messages if they believe their individual circumstances or usual polling cycle so warrants. The Commission further clarifies that if an EAS Participant has detected a CAP alert message concerning a time-sensitive emergency and is trying to retrieve it, but it is taking an unreasonably long time to finish downloading the full content of the message from the IPAWS server due to factors such as internet protocol (IP) transport latency, the EAS Participant may proceed to transmit the received legacy version of the same alert right away. The Commission leaves it to EAS Participants to decide what a reasonable amount of time is, given their familiarity with their IP connections and the time-sensitivity of the emergency event in issue.

12. The Commission disagrees with Sage and other parties who argue that the minimum waiting period for CAP polling should be an option left to each EAS participant. As explained above, the Commission concludes that all EAS participants should be subject to the 10-second minimum time limit to ensure that the vast majority of CAP messages will be detected and used. However, by allowing EAS participants to poll after more than 10 seconds, the rule provides flexibility to address Sage’s concern that a uniform, “one-size-fits-all” CAP polling and prioritization requirement would fail to account for unique factors affecting particular EAS Participants. The CAP prioritization mandate only sets the earliest time at which polling could occur and lets EAS Participants, based on their familiarity with their IP

transport links and other factors, adopt a longer CAP polling interval if that works best for their systems.

13. The 10-second minimum also accounts for the concerns that equipment manufacturer DAS raises in its comments opposing any minimum delay time. DAS contends that, in the version of CAP polling and prioritization it has already implemented, “the polling [for] and processing [of CAP messages] . . . will not take longer” than the time required “to process the audio portion of a legacy EAS message that arrives first.” The Commission’s rule accommodates this situation; it does not preclude EAS Participants from sending out a CAP message before the matching legacy message is ready to be transmitted. Similarly, the rule does not compel EAS Participants to transmit the CAP version (if one is available) any later than it would have transmitted the legacy version. Thus, the basic requirement to poll for the CAP version of a received legacy alert with the timing adopted here will not materially delay or otherwise hamper the relay of the received legacy version to the public.

14. *Application of the CAP Priority Mandate.* The Commission’s new rules requiring EAS Participants to poll for and prioritize CAP-formatted messages will apply to all EAS alert categories except for alerts with the Emergency Action Notification (EAN), National Periodic Test (NPT), or Required Weekly Test (RWT) event codes. As discussed below, with respect to these three codes, the Commission concludes that requiring CAP polling and prioritization would be counterproductive.

15. The Commission exclude National Emergency Messages using the EAN code (*i.e.*, Presidential alerts) because the expectation is that any Presidential alert announcing a national emergency would contain live audio, and the record confirms that IPAWS is not presently capable of reliably carrying live audio messages in CAP format in real time. Moreover, the EAS-CAP Industry Group (ECIG) Implementation Guide contains no technical guidelines that would support such live transmissions over IPAWS. Because IPAWS cannot currently support live streaming of a Presidential alert, the Commission concludes the CAP polling mandate should not apply to EAN messages at the present time.

16. With respect to national test messages issued using the NPT code, the Commission does not require CAP polling or prioritization because it would undermine the objectives of testing. In some instances, the national

EAS test conducted by FEMA is limited to testing EAS in the legacy format, *i.e.*, the purpose of the test is to assess EAS’s capacity to disseminate a legacy nationwide EAN alert. Because the Commission does not require EAS Participants to poll for a CAP version of an actual nationwide legacy EAN alert, there is no reason to require CAP polling when testing the system’s capacity to transmit such an alert. Commenters concur that, for these reasons, requiring CAP polling of NPT alerts is unnecessary and potentially counterproductive. The same principle applies to instances where FEMA uses the NPT code to conduct a nationwide test of EAS in both legacy and CAP formats to compare the relative speed and propagation patterns for each format. In such instances, requiring EAS Participants to poll for and prioritize the CAP version of the message could skew the comparative test results by causing EAS Participants to rebroadcast (and further propagate over the daisy chain) the CAP version rather than the legacy version they received. Accordingly, the Commission declines to require CAP priority polling for the NPT at this time.

17. Finally, the Commission does not require polling for RWT alerts because they typically consist solely of tones, contain no audio or visual messages, and are used merely to ensure that the EAS equipment is functioning. Under these circumstances, the Commission agrees with commenters that there is no appreciable benefit to requiring CAP polling for RWT messages. With respect to the Required Monthly Test (RMT) alerts, however, the Commission agrees with commenting parties that the CAP polling requirement should apply. Because RMT alerts, unlike RWT alerts, are audible (and readable as visible text) to the general public, CAP polling and prioritization will enable the public to benefit from the superior quality of the text of CAP messages for those alerts.

18. The Commission declines to grant an exception from the CAP prioritization mandate for radio broadcasters, as advocated by NAB. NAB contends that “there seems to be no reason to force radio stations to upgrade equipment or otherwise change their current practices” since “the entire [*Accessibility NPRM*] is framed in terms of enhancing the accessibility of EAS alerts for persons who are deaf or hard of hearing through the dissemination of more alerts with matching visual crawls and audio messages.” The Commission disagrees. While the *Accessibility NPRM* emphasized matching of visual with audio messages, there are ample reasons why radio broadcasters, like video service EAS Participants, should be

required to distribute CAP messages rather than legacy-formatted messages wherever possible. First, some digital radio broadcasters transmit visual alerts to digital radio receivers. Further, as discussed above, the audio generated from a CAP alert, whether from text-to-speech or from airing a CAP audio file, typically is superior in clarity and quality to that contained in a legacy alert. Use of text-to-speech has been standardized in EAS equipment and systems for over 12 years, and it is routinely used and supported today. Requiring radio broadcasters to prioritize CAP alerts over legacy alerts should result in optimizing the audio quality of the alert messages they broadcast, including rendering audio messages comprehensible that might otherwise be less intelligible had the legacy audio been broadcast instead. The Commission finds improving the audio quality of alerts to be an important public interest benefit, and the Commission therefore declines to exempt radio broadcasters from the CAP prioritization requirements adopted in this item.

19. Finally, the Commission concludes that it would not serve the public interest to require all EAS Participants to transmit both the legacy version of an alert message and a subsequently-acquired CAP message, as the Accessibility Coalition suggests. Such a requirement would result in the airing of duplicate alerts, which have historically been prohibited in the EAS rules because they can cause congestion in the alerting process, create public confusion, and cause additional preemption of programming that might cause broadcasters to abandon carriage of state and local alerts. In any case, the Commission expects the 10-second minimum polling requirement will be sufficient to capture any available CAP version of a received legacy alert in the vast majority of cases without causing significant delay in transmitting the alerts.

#### *B. Revising the Alert Text for Certain National EAS Codes*

20. Consistent with the proposals in the *NDAA NPRM* and the *Accessibility NPRM*, the Commission amends its rules prescribing the language to be used in audible and viewable messages generated from three national EAS alert codes: EAN (Emergency Action Notification), NPT (National Periodic Test), and PEP (Primary Entry Point). In each case, the Commission adopts simpler, more straightforward terms that will enable the public to understand the origin and purpose of these alerts more easily and, in particular, will enable

people who are deaf or hard of hearing to receive and comprehend the critical informational elements of the alerts. The revised text set forth below will be used in the messages displayed as text on the screens of viewers' devices. In addition, for alerts issued in CAP format with no audio message included, the EAS equipment will generate audio messages that include the revised text. The Commission also prescribes a scripted visual message that EAS Participants must display when FEMA conducts nationwide tests of the alert system in legacy EAS-only format. In conjunction with these changes, the Commission adopts certain conforming edits to the Commission's implementing rules. The Commission discusses these changes below.

21. The Commission revises the prescribed text associated with two event codes (EAN and NPT) and one originator code (PEP) listed in its rules. The Commission changes the text for the EAN event code from "Emergency Action Notification" to "National Emergency Message," changes the text for the NPT event code from "National Periodic Test" to "Nationwide Test of the Emergency Alert System," and changes the text for the PEP originator code from "Primary Entry Code System" to "United States Government." The Commission agrees with the Accessibility Coalition that these changes to the alert text displayed to the public for these three codes will make the EAS more accessible to people who are deaf or hard of hearing. The Commission also agrees with FEMA, NWS, and many other commenters that these changes will make these national alerts easier for all members of the public to understand and will more effectively inform people of emergency situations. For consistency, the Commission also revises its rules to use the term "National Emergency Messages" instead of "Emergency Action Notification" wherever that term appears.

22. The improvements brought about by these text changes are evident when comparing the alert header seen or heard by the public under the preexisting rules and under the Commission's new rules. Under the preexisting rules, an alert using the PEP and EAN codes would read, in relevant part, "The Primary Entry Point system has issued an Emergency Action Notification. . . ." The new version of this alert will read, "The United States Government has issued a National Emergency Message. . . ." Similarly, for nationwide test alert messages initiated by FEMA in CAP format, the existing header text reads "the Primary

Entry Point system has issued a Nationwide Periodic Test." Under the Commission's new rules, the header text will read "the United States Government has issued a Nationwide Test of the Emergency Alert System. . . ."

23. The Commission finds that these changes will result in clearer and more comprehensible alert messages. The Commission agrees with the Accessibility Coalition that displaying clearer text for alerts will make these messages more accessible to people who are deaf or hard of hearing. NCTA also asserts, and NWS, NAB, DAS, and Sage agree, that such changes "will provide the public with clearer, more uniform, and more readily understandable information. . . ." The Commission concludes that changing the visual displays of alerts and related updates to improve clarity will mitigate the risk of reduced public response to emergency messages that the public misunderstands. The Commission also finds that clearer description of NPT test alerts will "minimize the potential for consumer confusion and alerting fatigue" and is therefore in the public interest, even though the NPT is not warning the public of danger. Further, the Commission agrees with the Accessibility Coalition that clarifying visual alert displays will improve accessibility of the EAS for people with hearing-related disabilities. These changes will benefit the public by reducing confusion about what alert messages are communicating in times of emergency and "clarify[ing] the critical informational elements included in nationwide EAS tests, particularly for members of the public that cannot access the audio message."

24. There is also ample justification for the specific wording of the new labels that the Commission is selecting for the EAN, PEP, and NPT codes. The Commission agrees with FEMA that "National Emergency Message" is a clearer and more accurate label for EAS alerts using the EAN code than "Emergency Action Notification," which "has no meaning or significance to the public and may create confusion, delaying the public taking protective actions to mitigate the impact of the impending emergency event."

25. Similarly, labeling alerts that use the PEP code as originated by the "Primary Entry Point system" is opaque to the general public and fails to provide any meaningful information about who originated the alert. In the *NDAA NPRM*, the Commission proposed to replace "Primary Entry Point system" with the term "National Authority." However, the Commission concludes

that the term "United States Government" more clearly communicates the source of such alerts than "National Authority," and the Commission therefore adopts "United States Government" as the label for alerts using the PEP code.

26. The Commission also finds that changing the NPT alert text from "National Periodic Test" to "Nationwide Test of the Emergency Alert System," as well as the NPT legacy script change discussed below, will make it clearer to the public that these alerts are only tests. This will eliminate confusion and will increase the public's overall trust in the alerting system, making it more likely that all members of the public will heed alert warnings and follow alert instructions in the future.

27. The Commission declines to adopt any other changes to alert code descriptions or scripts beyond those adopted today. The Commission agrees with NWS that other alert code descriptions received by the public are already sufficiently clear and convey the nature of the alert in a concise and easily understandable way. The Commission also declines suggestions to establish a new regional test code and require EAS Participants to display the word "regional" instead of "national" or "nationwide" when FEMA geotargets a test alert. The Commission finds that no confusion will result from using the term "national" or "nationwide" even if a regional test alert is sent, since NPT alerts are test messages that contain no emergency instructions to the public. In addition, the infrequency of regional NPT tests further persuades us that creating a separate new code for regional test alerts is unnecessary.

28. In the *NDAA NPRM*, the Commission proposed to change the three-letter EAN and PEP codes to match the proposed new text labels for these codes. On review of the record, however, the Commission sees no need to change any of the existing three-letter codes. Unlike the text labels that are seen by the public, the three-letter codes are entirely functional and the public never sees or hears them. These codes are automated computer language that are received and processed with no human involvement. Even EAS Participants would rarely see them, if ever, once the text change for a code is programmed into EAS equipment with a one-time update. The only time any employee of an EAS Participant would see the codes is if a station engineer were present on site and looking at the EAS screen at the moment an alert was received. The Commission also finds that no confusion will result from using

codes that are not acronyms for the displayed text. This has long been the case for other codes currently in use without incident, like the “WXR” code for “National Weather Service.” Thus, there is no risk of public confusion from retaining the existing codes. In addition, as several commenters point out, changing these three-letter codes could be costly to implement and might create a risk of alert failure, which could seriously jeopardize public safety. NWS contends that changes to the existing three-letter alert codes might cause NOAA Weather Radios to display inaccurate or partial visual messages on radio display screens. No commenter supported changing the three-letter codes or identified any benefit to the public, EAS Participants, or alert originators of doing so. The Commission concludes that changing only the text for these alert codes without modifying the codes themselves will fully achieve its public interest objective of more comprehensible alerts, while avoiding unnecessary costs or risks.

29. *Standard Script Displayed for Nationwide Test Alerts in Legacy EAS Format.* The Commission adopts its proposal, discussed in the *Accessibility NPRM*, to modify the text display used in the visual crawl for EAS-based nationwide test alerts transmitted in legacy format. Specifically, when a legacy nationwide test alert is generated from the PEP and NPT header codes and uses the “All-U.S.” geographic location code, the Commission requires video service EAS Participants to display the following scripted text: “This is a nationwide test of the Emergency Alert System, issued by the Federal Emergency Management Agency, covering the United States from [time] until [time]. This is only a test. No action is required by the public.” This new text will be much easier to understand than the text displayed for such test alerts under the current rules (“the Primary Entry Point system has issued a National Periodic Test . . .”). The Commission notes that the revised text will be displayed only when FEMA issues a nationwide test alert in legacy EAS format and therefore cannot use the enhanced text capabilities of CAP to explain the alert visually in greater detail. It is unnecessary to prescribe such a script for test alerts that FEMA issues in CAP format, since FEMA can add explanatory text to CAP-formatted messages and ensure that the audio message matches the visual crawl generated for the alert.

30. The Commission disagrees with Sage’s and Timm’s arguments that addition of a script is a departure from processing of actual EAN alerts that

would render the testing process less effective. As the Commission has long acknowledged, the technical parameters of NPT test alerts need not be identical to those of EAN alerts announcing actual national emergencies to generate an effective test, especially if a slight difference will make the test alert message are more comprehensible and accessible, including to people who are deaf or hard of hearing. In this instance, a slight deviation between the use of a scripted message for legacy NPT test messages and the visual crawl that would be generated for an actual EAN alert will not significantly diminish the NPT’s usefulness. The Commission agrees with Sage, however, that there is no need to prohibit translations, and therefore clarifies that EAS equipment manufacturers may translate the NPT script adopted today into additional languages, as some currently do for alert code text descriptions.

31. The Commission also requires radio broadcasters to change the text for the NPT event code from “National Periodic Test” to “Nationwide Test of the Emergency Alert System.” The Commission disagrees with NAB’s contention that “it seems inappropriate to impose the same obligation [to implement the new NPT text and NPT script] 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.” The Commission also disagrees with NAB’s suggestion that the only “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.” While these are central reasons why we are adopting these requirements, they are not the only factors justifying these rule changes, as discussed above. For example, some digital radio broadcasters display visual alerts on the screens of digital radio receivers. Moreover, it is important for radio broadcasters’ NPT alerts to refer to “Nationwide Test of the Emergency Alert System” in instances when CAP-format text messages do not include any audio content and the audio alerts must be generated based on the CAP message header using text-to-speech functionality. Otherwise, if FEMA were to send an NPT alert in CAP format consisting exclusively of text without any audio component, or if a distribution failure resulted in a radio broadcaster receiving only the text but not the audio portion of the alert, a radio broadcaster that had not

implemented the new NPT text would air the outdated “National Periodic Test” language that the Commission has found to be confusing to the public.

32. While the Commission requires radio broadcasters to implement the new NPT header code text, it declines to require them to update their devices to accommodate the new prescribed script for legacy-format NPT messages. The Commission concludes that imposing such a requirement on radio broadcasters would yield only minimal benefits, because the prescribed NPT script is to be used only in visual displays and would not affect audio messages. Although a few radio broadcasters might be able to display the new prescribed script on digital radio receiver screens, they would display the clearer NPT label that the Commission adopts today (“Nationwide Test of the Emergency Alert Message”) even if they were not required to display the more detailed NPT script; and imposing that requirement on the large majority of radio broadcasters would have no impact on alert clarity. Radio broadcasters are free to implement this updated script voluntarily, however, and the Commission encourages them to do so if it will improve digital radio visual displays, or for the sake of consistency across deployed EAS decoder devices.

33. *Eliminating National Information Center (NIC) Code.* As the Commission proposed in the *NDAA FNPRM*, the Commission is deleting the National Information Center (NIC) event code because the federal National Information Center no longer exists, and there is thus no reason to maintain this event code in the rules. Most commenting parties agree. Deleting the NIC code will avoid confusion by preventing any accidental activation of this obsolete alert and will avert the risk of rogue alerts that might be caused by unauthorized parties’ intentional misuse of the NIC code. Since deletion of the NIC code can be implemented by a simple software change that requires only an update to EAS encoders, the Commission requires EAS Participants to implement this change in the same timeframe as the other EAS encoder device changes adopted in this order. This should entail negligible costs since EAS Participants can implement all required encoder updates in a single package update. The Commission also directs SECCs to remove this code from state EAS plans and advises FEMA to remove NIC from its list of codes that can be accepted from alert originators and issued via IPAWS.

34. The Commission rejects Sage’s alternative proposals for preventing

issuance of NIC-coded alerts without deleting the NIC code, such as directing parties to ignore the code and asking FEMA and alert originators not to use it. These approaches would be more complicated to implement than simply deleting the NIC code, and they would be far less effective at preventing potential misuse of a code that is otherwise obsolete and unnecessary. The Commission also rejects Donelan's suggestion that the NIC code be retained and repurposed. The Commission cannot do this except in concert with FEMA, which has asked to delete the code.

35. *Conforming Changes to Implementing Rules.* Finally, to avoid potential confusion stemming from associating the PEP originator code with the term "United States Government," the Commission is replacing the term "Primary Entry Point System" in the rules with the term "National Public Warning System." The Commission notes that FEMA has ceased using "Primary Entry Point System" and has replaced it with the term "National Public Warning System" (NPWS), and the Commission finds that aligning its terminology with FEMA's is in the public interest. While the Commission did not specifically propose or mention this rule change in the *NDAAs NPRM* or the *Accessibility NPRM*, the Commission believes it is a logical outgrowth of the proposal to change the text associated with the PEP originator code. Furthermore, to the extent necessary, the Commission invokes the exception in the Administrative Procedure Act that allows agencies to proceed without notice and comment to revise rules where notice and comment is unnecessary. Here, the Commission believes initiating another notice and comment proceeding to address this non-substantive conforming rule change is unnecessary and that adopting it without further notice and comment is in the public interest, because the change in terminology used to refer to certain entities in the Commission's rules will have no impact on any party's rights or obligations. The Commission also makes minor edits to Part 11 to update the contact information for the National Archives and Records Administration. These updates to NARA's contact information do not alter the substance of parties' obligations, but merely the procedures they follow to obtain required standards from NARA, and the Commission thus views them as procedural rule changes for which notice and comment is not required. To the extent that these rules were instead seen as something other than procedural

rules, the Commission independently finds good cause to forgo notice and comment as an alternative basis for its decision. The Commission finds notice and comment unnecessary because regulated entities' rights and obligations are not being altered.

### C. Compliance Time Frame

36. The Commission requires all EAS Participants to comply with the rules adopted in this order no later than one year from the effective date of the order (subject to the exceptions discussed below). The Commission agrees with commenting parties that all rule changes requiring software updates to EAS encoder equipment can be accomplished on a one-year schedule. Equipment suppliers DAS and Sage indicate that changes such as the revised EAN code text and removal of the NIC event code "can be accomplished via software updates" to EAS equipment in tandem with "regularly scheduled maintenance activities" involving minimal cost and effort on the part of EAS manufacturers and participants and that "[t]he normal estimate of a year would apply." These parties support the same implementation period for the new CAP polling and prioritization requirements: DAS says it has already installed "a feature called Triggered CAP Polling™" on EAS devices and "made [it] available on every software update since 2018, while Sage states the feature "can be implemented by Sage and installed by users over a one-year period." This one-year implementation period is consistent with past orders requiring EAS encoder software updates. This deadline applies to all EAS participants, including radio broadcasters.

37. REC Networks requests that the CAP polling implementation deadline be extended to three years for analog radio broadcasters, contending that "[t]here are many smaller broadcast stations, including LPFM stations, smaller noncommercial educational (NCE) stations as well as small 'mom and pop' and other standalone commercial broadcasters, including those owned or controlled by minority groups[,] that do not have the budget or resources to implement CAP Polling within the proposed mandated one-year time frame." The Commission declines to do so. REC cites vendor costs of less than \$500 for the necessary software changes, and does not provide any evidence to suggest that this would be a financial hardship for small broadcasters, much less all analog broadcasters. Any individual entity may seek a waiver if it can demonstrate that "special circumstances" justify

deviation from the generally applicable requirement. The Commission notes that REC Networks generally disagrees with its decision to apply the CAP polling and prioritization requirements to analog radio broadcast stations, as discussed above. Those general policy objections do not justify a special carve-out from the generally applicable compliance timeframe for an entire industry segment.

38. The Commission disagrees with NCTA's and ACA's argument that cable operators would need at least two years to conduct the downstream equipment testing and modifications needed to implement timed CAP polling and the changes to the PEP and NPT code texts and the NPT script. The EAS changes the Commission adopts in this Order are substantially similar to the NPT and national location code rule changes the Commission adopted in 2015, when NCTA agreed that one year was enough time for even a complex downstream equipment testing process. Neither NCTA nor ACA explains why the downstream equipment testing and modification process would take longer now than it did in the past. The Commission finds that one year is sufficient time (except in the circumstances described below) for all EAS Participants to implement the changes that the Commission deems necessary to improve public safety by making alerts more comprehensible and accessible, as promptly as practicable.

39. The Commission recognizes, however, that it may take more than one year for cable operators to implement the required change to the EAN text. Cable industry commenters note that the text associated with EAN-coded alerts (unlike text associated with other alert codes) is sometimes hard-wired into "downstream" equipment in cable operators' networks, including set-top boxes that are controlled by the cable operator and installed at customers' premises. Thus, while cable operators can implement software upgrades in their EAS encoder/decoder equipment to transmit the new text for the EAN code, many downstream set-top boxes cannot be similarly reprogrammed through software modifications alone (a problem that is especially acute for some older, discontinued models for which manufacturers no longer provide software support). As a result, implementing the new EAN text will require these set-top boxes to be replaced. Moreover, NCTA argues persuasively that wide-scale hardware replacement at customers' premises on a short timeframe would entail excessively high costs.

40. Specifically, the Commission grants cable operators six years from the effective date of today's order to complete the transition to the new EAN text display of "National Emergency Message" to the extent that the change requires replacement of navigation equipment (*i.e.*, set-top boxes) that cannot be safely updated via software upgrades alone, and 15 months from the effective date of the order in other instances where implementing the EAN text change require upgraded software on set-top boxes and headend equipment used to control set-top boxes. The Commission finds these longer compliance time frames for implementing the EAN change in this limited context to be justified, due to the risk that improperly programmed equipment might fail to transmit EAN alerts properly, the need for testing such software changes to assure a smooth and effective rollout, and the excessive costs that immediate replacement of such equipment would impose. Similarly, to the extent such changes require replacement of set-top boxes or other navigation equipment at customer premises, the Commission finds that it would not be in the public interest to require replacement of all such equipment in cable networks with the EAN text change within one year. A six-year implementation period will avoid rushed compliance efforts without testing and verifying the proper functionality of such equipment, and will enable cable operators to gradually replace outdated set-top boxes to the extent necessary on a schedule closer to the average lifecycle of this equipment, resulting in costs that would not substantially exceed those they would incur in the ordinary course of business.

41. The Commission's compliance timeline of six years is based on estimates of the average life span for replacement of cable set-top-boxes and similar devices that cable industry representatives have submitted to government agencies in the past. For example, NCTA represented in 2017 that the average set-top box lifespan is five to seven years and that the average deployment cycle for set-top boxes is six years. NCTA more recently stated that "its members estimate that set top boxes have "a lifecycle of roughly 10+ years," but it has clarified that this estimate applies only to "newer set-top boxes [that] are designed to have longer lifespans," not to *all* deployed set-top boxes. The six-year replacement timeline the Commission establishes today primarily applies to older legacy set-top boxes that cannot be updated via software changes. Therefore, it is

appropriate to rely on the earlier estimates for purposes of establishing this timeline. Finally, the Commission does not adopt ACA Connects' proposal to exempt small cable operators from the set-top box replacement requirement or to extend the six-year timeline to ten years. While ACA Connects asserts that the requirement would be burdensome to small operators, it provides no evidence to support this assertion. ACA Connects states that "the cable video business has become increasingly challenging in recent years, especially for the smallest operators," and argues that a mandate to replace set-top boxes "could prove highly burdensome for some operators and even encourage exit from the cable video business." However, ACA Connects provides no cost data or other evidence that would support a blanket exemption for all small operators. To the extent that individual cable operators can demonstrate unique hardship or other special circumstances, they may seek a waiver pursuant to the Commission's rules.

42. NCTA asserts that even where set-top boxes need not be replaced, implementing the EAN text change may require upgraded software on set-top boxes and headend equipment used to control set-top boxes, and it argues that the Commission should allow 18 months for all required software upgrades, including the upgrades to implement the new labels for the NPT and PEP codes. The Commission declines to do so. The Commission will allow cable operators additional time to comply with the required change to the text associated with the EAN code only, but finds that 15 months is more than adequate to account for these software-related complexities, including any unexpected difficulties. The additional time the Commission is allowing for cable operators to implement the EAN text change, as discussed above, is justified by the potentially more complex activities necessary to reprogram or replace some set-top boxes and set-top box controller equipment at cable headends. No such activities are needed to implement the other changes adopted in this order, such as the CAP polling and prioritization requirements or the new labels for the NPT and PEP codes. The Commission also is not persuaded by NCTA's argument that establishing identical deadlines for all of these changes is needed to reduce the risk of complications or disruption to consumers. Like other EAS Participants, cable operators can implement changes other than the EAN change by relatively simple software upgrades on EAS

encoder/decoder equipment that do not involve modifying software in set-top boxes or related equipment in cable headends and are not disruptive to the end user.

43. The Commission emphasizes that cable operators must implement any necessary EAN software modifications to their upstream EAS decoder equipment by the generally applicable one-year deadline. This will enable at least those subscribers with updated or newly replaced set-top boxes to see the new "National Emergency Message" text for EAN code alerts as soon as reasonably possible. To ensure that cable operators continue to successfully deliver alerts that use the EAN event code to their subscribers as the rules currently mandate, the Commission also requires these software updates to be implemented in such a way that, for the interim period of time prior to the date six years after the effective date of this Order, any set-top box that cannot receive a software update will still process the EAN and will continue to display the old "Emergency Action Notification" text upon receiving the EAN. Commenting parties confirm that a change to the EAN text only (as opposed to a change to the three-letter EAN code) will allow non-updated downstream processing equipment to continue to display alert messages.

44. To ensure that people with disabilities are supported during the interim equipment replacement period, the Commission further require that if a cable operator supplies or leases set-top boxes or similar navigation devices to its customers that cannot be updated to display the new text for EAN messages, the operator must, upon the request of any customer who is deaf or hard of hearing, replace that device with a new device capable of displaying the new EAN visual text. The cable operator must supply and, if necessary, install such a device within a reasonable time after receiving such a request, on the same terms and to the same extent as provided in 47 CFR 79.108. This rule, adopted as part of the Commission's implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), involved a nearly identical weighing of equities requiring cable operators to provide compliant set-top boxes to subscribers with disabilities upon request and within a reasonable time to ensure accessibility without unduly burdening cable operators, and is therefore an appropriate standard here. The Commission agrees with DeafLink that increased EAS accessibility for people who are deaf or hard of hearing is long overdue, and "[t]he Deaf

community has long awaited an accessible solution . . .” While the Commission is granting cable operators a six-year compliance window to avoid imposing excessive short-term costs, this does not excuse them from their obligation to promptly meet the needs of people who are deaf or hard of hearing for clear visual alerts. Moreover, since cable operators will need to implement equipment replacement plans to ensure that all set-top boxes on their networks can display the new EAN text by the end of the six-year period, the Commission believe it is reasonable to require that such plans include a mechanism to supply compliant set-top boxes at an earlier date to people who are deaf or hard of hearing who request them. To ensure that individuals with hearing disabilities can benefit from earlier access to new or updated set-top boxes, the Commission also requires cable operators to post information on the availability of such devices on their official websites as soon as new or updated devices are available for distribution to customers and explain the means for making requests for such equipment, in the same manner as by rule 79.108(d)(2). While the Commission did not explicitly seek comment on such proposed requirements, the Commission finds that these requirements are a logical outgrowth of the proposal in the *NDAA FNPRM* to revise the text of the EAN alert (if not the three letter code itself), in tandem with the cable industry’s comments regarding the difficulty and time-consumer nature of doing so, as well the existing requirements that cable providers provide notice on their official websites about the availability of accessible navigation devices.

45. Finally, with respect to cable-card devices and smart TVs that are not controlled by cable operators, the Commission encourages those third-party manufacturers to update their deployed devices to reflect the new EAN text where possible, and to ensure future manufactured models reflect the new EAN text. Cable operators are required to transmit the EAN message to their subscribers, and should therefore take appropriate steps to minimize the risk that updates to their own facilities will trigger a downstream failure in existing third-party customer premise devices.

#### *D. Persistent Alerts*

46. In the *NDAA FNPRM*, the Commission discussed a proposal, originally suggested by FEMA, to update legacy EAS to facilitate “persistent alerts”—that is, to enable alerts concerning “emergencies that require

immediate public protective actions to mitigate loss of life” to “persist on EAS until the alert time has expired or is cancelled by the alert originator.” After review of the record, the Commission declines to take further action on this proposal at this time. The Commission is not persuaded that implementing this proposal in legacy EAS would be technically feasible, and it takes note of the virtually unanimous opposition to the proposal by commenting parties, including alert originators, SECCs, EAS Participants, and equipment manufacturers. As one commenter notes, legacy EAS does not enable alert originators to retract or alter an alert once they issue it, and the Commission is troubled by the possibility that a persistent alert could become outdated or even counter-productive if conditions change as emergency responders address an incident. For example, a persistent alert in legacy EAS would likely block out all subsequent alerts (except an EAN or NPT) until the valid time period for the original alert expired. During that time, the audio portion of the EAS alert would continuously play, which would drown out the audio of regular programming as well as any emergency news programming that might provide updated information related to the emergency condition not covered in the original EAS alert audio message. Similarly, the original visual message would continuously scroll until the time period for the alert expired, thus blocking the display of potential updated information that the EAS Participant might be attempting to broadcast.

47. While the Commission recognizes that persistent alerts could be feasible and potentially beneficial in a different aging system architecture, it does not see how those benefits could be realized in legacy EAS’s architecture, which is designed to provide brief warnings to the public. Moreover, legacy EAS already provides a mechanism for repeatedly reminding the public of an impending emergency: alert originators can repeat their alerts if they determine that such action is warranted. Based on these considerations, the Commission is not adopting any new rules or policies to facilitate persistent alert messages in legacy EAS at this time.

#### *E. Benefit-Cost Analysis*

48. *Benefits.* As discussed above, the Commission finds that today’s rule changes will result in substantial public interest benefits. Specifically, the rule changes the Commission is adopting reduce confusion and make alerts easier to understand, making recipients more

likely to trust alerts and respond to them, and will yield particular benefits by improving access to alert information for people with disabilities. The CAP polling rule change will lead to increased dissemination of CAP-formatted alerts, which provide more detailed alert information than legacy alerts to recipients, including better instructions on protective measures that the public should take. Similarly, the Commission’s new rules requiring clearer identification of the purposes and origin of alerts increase the likelihood that the public will pay attention to them. Eliminating confusion and building trust in EAS makes it more likely that the public will follow alert instructions in the future. The public’s increased understanding and trust in alerts improves public safety outcomes by saving lives and better protecting property.

49. While it is difficult to quantify the precise dollar value of improvements to the public’s safety, life, and health, the Commission nonetheless concludes that very substantial public safety benefits will result from the rules it adopts today. EAS alerts that convey more complete information and are easier to understand by the general public, especially those with hearing and vision disabilities, will enable more listeners and viewers to respond to emergency situations by taking appropriate protective actions, such as evacuating or sheltering-in-place, depending on the nature of the emergency. As a consequence, the Commission anticipates that the rule changes it adopts today will yield substantial life-saving benefits in the event of such emergencies. As discussed above, the Commission agrees with commenting parties that the CAP polling and prioritization requirement will result in greater display of alerts with clearer and more informative visual text to better inform the public, and that changing the text of certain alert codes will improve the visual displays of alert messages. The value of improved public safety in reducing the risk of avoidable deaths and injuries by better informing the public of pending emergencies is substantial. While the Commission cannot estimate the precise incremental dollar value of these changes, improvements to the EAS that increase accessibility, enable people to access and understand alerts more easily and respond more quickly, and increase overall confidence in the EAS will produce large benefits to preservation of life and property. The Commission notes that some agencies estimate the benefits of preservation of life and



property by considering the value of reduced mortality risk. If the Commission were to estimate that the rule changes it adopts today would reduce mortality risk sufficiently as to lead to an expected reduction of one life lost per year—an expectation the Commission finds reasonable and conservative here—the benefits of that risk reduction would be worth \$59 million over the first five years after the rules take effect (*i.e.*,  $5 \times \$11.8$  million).

50. *Costs.* The measures adopted today are the most cost-effective ways to achieve the benefits of making EAS more comprehensible, and therefore more effective, as described above. By declining to adopt proposals to change the PEP code to NAT or the EAN code to NEM, the Commission avoids imposing additional and potentially excessive costs that its new requirements could have imposed on industry. By allowing six years for complete cable system EAN text change compliance, the Commission avoids imposing excessive costs on the cable industry that would have resulted from a shorter compliance timeframe. By exempting radio broadcasters from the legacy NPT script change, the Commission is reducing the extent of decoder software updates made outside of the normal course of planned upgrades. Yet, because the Commission is allowing sufficient time and flexibility to allow EAS Participants to make upgrades in tandem with general software upgrades installed during the regular course of business, the cost of the software changes needed due to the requirements adopted today will not significantly exceed the costs of software updates that most EAS Participants would need to implement whether or not these rule changes are adopted. Accordingly, most EAS Participants will avoid this cost.

51. In the *NDAA FNPRM* and the *Accessibility NPRM*, the Commission asked for cost estimate submissions from parties subject to today's decision. No party did so. The Commission believes, however, that the cost of implementing the EAS decoder equipment changes adopted in this order will be roughly in line with the cost of changes adopted in the 2016 *Weather Alerts Order* and the 2017 *Blue Alerts Order*, which similarly entailed few costs beyond the reprogramming of EAS decoder equipment. In the *Blue Alerts Order*, for example, the Commission concluded that the only cost to EAS Participants for installing the new EAS software is the labor cost involved in downloading the software patches into their devices and associated clerical work. The

Commission follows the procedure of estimating the labor costs of updating software used in the *Weather Alerts Order* and the *Blue Alerts Order*.

52. To form an upper bound of the cost, the Commission assumes that the software update takes 5 hours, which it expects is substantially longer than the average time a software update would take. The Office of Management and Budget approved an estimate of \$25 per hour of labor cost for an EAS Participant to fill out the Commission online report form for EAS National Tests in 2011. The Commission finds that the real labor cost of software updates to implement all of today's changes would be similar and adjusts the labor cost upward to \$35 to reflect inflation since 2011. Each device update would then entail \$175 of labor cost, and with 28,555 estimated broadcasters and cable headends to update, this implies a total cost of approximately \$5 million. The figure 28,555 is comprised of the sum of 21,149 broadcast stations and 7,136 cable headends.

53. Indeed, the Commission finds that the software updating cost is likely to be well below \$5 million because, as noted above, most EAS Participants will have sufficient time to avoid this labor cost by downloading the required software changes together with their general software upgrades. The Commission therefore estimates the cost of all decoder software updates most of which can be bundled with "normally scheduled software releases" and performed at the same time, will not exceed a total one-time cost of approximately \$5 million for all EAS participants.

54. According to cable industry commenters, four of the six changes (CAP polling, EAN text, NPT text, and NPT script) also require significant testing in cable operators' networks. As to those testing costs for the cable industry, the Commission believes that industry will realize substantial cost savings from conducting coordinated testing for all of these changes and can do so on the same one-year schedule in tandem with other annual testing. The Commission expects that this will result in additional testing cost that, together with the software downloads, will not cause total costs to exceed the \$5 million cost ceiling discussed above. As to the added equipment costs in the cable industry, the Commission expects that cost to be minimal. The six-year timeframe it is allowing for the replacement of set-top boxes will enable operators in most cases to install new equipment in consumers' premises in the ordinary course of business. The Commission estimates that the

additional amount that cable operators will incur for replacing set-top boxes to implement the new EAN requirement over the six-year period will not exceed \$4.4 million as a cost ceiling.

55. *Comparison of Costs and Benefits.* The Commission concludes that the life-saving benefits to the public of increased comprehensibility and accessibility of emergency information from the actions adopted in this Order will far outweigh the implementation costs imposed on EAS participants. Without attempting to quantify the precise dollar value of improvements to the public's safety, life, and health, the Commission observes that the value of the benefits of each of today's six changes would only have to exceed the worst-case estimated implementation costs to outweigh the cost of compliance. In light of the record reflecting substantial public safety improvements from today's changes, the Commission finds that the changes will have a value that greatly exceeds the \$9.4 million overall cost ceiling for implementing these six changes. Based on the record, the Commission further finds that each change has a value that exceeds its incremental implementation cost.

#### Initial Regulatory Flexibility Analysis

56. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice of Proposed Rulemaking released in June 2021, and the Notice of Proposed Rulemaking released in December 2021 (*Notices*). The Commission sought written public comment on the proposals in the *Notices*, including comment on the IRFAs. The two comments were filed addressing the IRFAs are discussed below in Section B. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### A. Need for, and Objectives of, the Final Rules

57. In today's Report and Order (*Order*), the Commission adopts rules to improve the comprehensibility and accessibility of emergency alerts the public receives via broadcast, cable, and satellite radio and television via the Emergency Alert System (EAS). The EAS ensures that the public is quickly informed about emergency alerts issued by federal, state, local, Tribal, and territorial governments and delivered over radio and television. These announcements keep the public safe and informed and have increased in importance in the wake of the emergencies and disasters experienced

by Americans in the past few years. The Commission has determined that these EAS rule changes are necessary to improve the comprehensibility and accessibility of EAS alerts, and to ensure equal accessibility to emergency alert information for people with hearing disabilities. Consistent with the congressional directives in the Communications Act, the Commission amends its rules to ensure that more people will receive better emergency alert information from the EAS.

58. Specifically, the Commission requires EAS Participants, upon receiving an alert in legacy format, to poll the Federal Emergency Management Agency's (FEMA) Integrated Public Alert Warning System (IPAWS) for a version of the alert in the Common Alerting Protocol (CAP) and, if available, to distribute the CAP version of the alert instead. The Commission also amends its rules to change the visual text displayed to the public for three alert codes: the Emergency Action Notification (EAN), the Primary Entry Point system (PEP), and the National Periodic Test (NPT), and to add a fourth new visual display for when the NPT is sent in legacy-only format. Finally, the Commission removes the outdated National Information Center (NIC) code from the EAS.

59. The rules adopted in the *Order* are intended to improve the clarity and comprehensibility of visual alert information for all Americans, and to ensure alerts are accessible to people who are deaf or hard of hearing. They will benefit the public by improving the quality of emergency information received, and they will ensure that the superior visual "enhanced text" capabilities of CAP alerts are more frequently distributed to the public. These actions will have the result of minimizing confusion and disruption caused by confusing visual alerts, will increase the public's trust in the EAS system, will promote accessibility to emergency information for people who are deaf or hard of hearing, and therefore will improve the system for distributing vital alert information for all Americans.

#### *B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

60. Brett Silverman and Jack Underhill filed comments that specifically addressed the analysis presented in the IRFAs. Silverman states that the Commission's 2012 order requiring all EAS Participants to make significant upgrades to their EAS equipment to support CAP alerting "means that many of the smaller

business entities have already paid to update their EAS systems," and therefore the proposed rules "will not put a significant effect on smaller broadcast companies who it may have been a burden for." Underhill states that the Commission should minimize costs for small entity broadcasters by "grant[ing] governmental subsidies to fund the software upgrades," or by "providing a general subsidy for organizations to fund any kind of equipment."

61. The Commission agrees with Silverman's assessment that the rules the Commission adopts today are, in large part, extensions of the equipment upgrades for the transition to CAP alerting which began in 2012, and therefore the costs will not significantly impact small entities. With respect to Underhill's comments, the Commission does not currently have a statutory funding mechanism in place to make grants to smaller broadcasters for the purpose of seeking to comply with the Commission's EAS rules or as a general fund. The Commission encourages small entities needing funds to seek grants that may be available from other funding sources, including the U.S. Department of Commerce's National Telecommunications and Information Administration or the Corporation for Public Broadcasting.

#### *C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

62. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

63. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

#### *D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

64. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the rules, adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) is

independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

65. Small entities are among the current EAS Participants which include 17,521 radio broadcasters and 8,133 other participants, including television broadcasters, cable operators, satellite operators, and other businesses in the industry segments discussed below, that are impacted by the changes adopted in today's *Order*.

66. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's actions may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 32.5 million businesses.

67. Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

68. Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment of less than 50,000. Accordingly, based on the 2017 U.S.

Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of "small governmental jurisdictions."

69. *Radio Stations.* This industry is comprised of "establishments primarily engaged in broadcasting aural programs by radio to the public." Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having \$41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than \$25 million per year. Based on this data and the SBA's small business size standard, the Commission estimates a majority of such entities are small entities.

70. The Commission estimates that as of March 31, 2022, there were 4,508 licensed commercial AM radio stations and 6,763 licensed commercial FM radio stations, for a combined total of 11,271 commercial radio stations. Of this total, 11,269 stations (or 99.98%) had revenues of \$41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of March 2022, there were 4,119 licensed noncommercial (NCE) FM radio stations, 2,049 low power FM (LPFM) stations, and 8,919 FM translators and boosters. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

71. The Commission notes, however, that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of "small business" requires that an entity

not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of "small business" is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

72. *FM Translator Stations and Low Power FM Stations.* FM translators and Low Power FM Stations are classified in the industry for Radio Stations. The Radio Stations industry comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having \$41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated during that year. Of that number, 1,879 firms operated with revenue of less than \$25 million per year. Therefore, based on the SBA's size standard the Commission concludes that the majority of FM Translator stations and Low Power FM Stations are small. Additionally, according to Commission data, as of March 31, 2022, there were 8,919 FM Translator Stations and 2,049 Low Power FM licensed broadcast stations. The Commission however does not compile and otherwise does not have access to information on the revenue of these stations that would permit it to determine how many of the stations would qualify as small entities. For purposes of this regulatory flexibility analysis, the Commission presumes the majority of these stations are small entities.

73. *Television Broadcasting.* This industry is comprised of "establishments primarily engaged in broadcasting images together with sound." These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to

affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having \$41.5 million or less in annual receipts as small. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than \$25,000,000. Based on this data the Commission estimates that the majority of television broadcasters are small entities under the SBA small business size standard.

74. The Commission estimates that as of March 31, 2022, there were 1,373 licensed commercial television stations. Of this total, 1,280 stations (or 93.2%) had revenues of \$41.5 million or less in 2021, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on June 1, 2022, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 31, 2022, there were 384 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,840 LPTV stations and 3,231 TV translator stations. The Commission however does not compile, and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of television station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

75. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA small business size standard for this industry classifies firms with annual receipts less than \$41.5 million

as small. Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year. Of that number, 149 firms operated with revenue of less than \$25 million a year and 44 firms operated with revenue of \$25 million or more. Based on this data, the Commission estimates that a majority of firms in this industry are small.

76. *Cable System Operators (Telecom Act Standard)*. The Communications Act of 1934, as amended, contains a size standard for small cable system operators, which classifies “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000,” as small. For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 677,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. The Commission notes however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Therefore, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

77. *Cable Companies and Systems (Rate Regulation)*. The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission’s rules, a “small system” is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable operators are small.

78. *Satellite Telecommunications*. This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$35 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees. Consequently using the SBA’s small business size standard, a little more than 80 percent of these providers can be considered small entities.

79. *All Other Telecommunications*. This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (e.g., dial-up ISPs) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

80. *Broadband Radio Service and Educational Broadband Service*. Broadband Radio Service systems, previously referred to as Multipoint

Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and “wireless cable,” transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.

81. In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except Satellite*). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

82. According to Commission data as of December 2021, there were approximately 5,869 active BRS and EBS licenses. The Commission’s small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed \$3 million and did not exceed \$15 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed \$15 million and did not exceed \$40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding \$3 million for the preceding three years. Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder

claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses. One of the winning bidders claiming a small business status classification in the BRS license auction has an active license as of December 2021.

83. The Commission's small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$20 million for the preceding five (5) years. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time the Commission is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

84. *Direct Broadcast Satellite ("DBS") Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using

facilities and infrastructure that they operate are included in this industry.

85. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service—DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation. DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, the Commission must conclude based on internally developed Commission data, in general DBS service is provided only by large firms.

86. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

*E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

87. The Order does not impose new and/or additional reporting or record keeping requirements, however as proposed in the *Notices*, the Order imposes additional compliance obligations on certain small, as well as other, entities that distribute EAS alerts and manufacture EAS equipment that process such alerts.

88. Specifically, the Commission adopts a mandatory CAP polling rule that requires EAS Participants, when they receive a state or local legacy EAS alert, to poll the IPAWS CAP EAS server to confirm whether there is a CAP

version of that alert and use the CAP version. EAS Participants must poll the IPAWS CAP EAS Feed for a CAP version of the received legacy alert at least 10 seconds after detection of the legacy alert's initial header code for a legacy state or local alert that, (i) is valid, (ii) covers a type of event and a geographic area for which the EAS Participant normally transmits alerts to the public and (iii) is not a duplicate of a CAP-formatted message it has already received.

89. The Commission also adopts changes to three EAS code text descriptions that EAS Participants must implement within one-year of the effective date of the *Order*. These changes impact for PEP code, EAN code, and NPT codes, but do not change the three-letter codes themselves. The *Order* changes the PEP code description from "Primary Entry Point" to "United States Government," and changes the EAN code description from "Emergency Action Notification" to "National Emergency Message," and the NPT event code description from "National Periodic Test" to "Nationwide Test of the Emergency Alert System." Additionally, the Commission requires a separate, longer prepared visual script for the NPT during legacy-based nationwide EAS test alerts, and deletes the NIC code from the EAS.

90. All of these changes require EAS equipment manufacturers to develop software updates in deployed EAS equipment and EAS equipment in production. Separately, the CAP polling change, the NPT code description change, and the NPT script addition will each also require EAS participants, particularly cable operators, to conduct testing and make modifications to downstream equipment used to process alerts, such as set-top boxes. The EAN code description change will also require EAS participants, particularly cable operators, to replace certain downstream equipment used to process the EAN, such as set-top boxes. In addition, since some deployed EAS encoder equipment might not be capable of being updated to reflect the new requirements, those devices will have to be replaced.

91. The primary costs associated with the rules the Commission adopts in the *Order* involve creating and installing software into EAS encoder devices, testing and modifying downstream network processing equipment, and replacing certain downstream processing equipment. In the *Notices*, the Commission requested cost estimates from the parties on the proposals adopted in today's proceeding but did not receive any. Therefore, the

Commission cannot quantify the cost of compliance for small entities. The Commission assesses that small entities will need to have their EAS decoder equipment updated by manufacturers to implement the requirements adopted in the *Order*. However, based on past EAS equipment updates where the Commission adopted changes adding new EAS event codes, the Commission believes the cost of compliance with the rule changes adopted in the *Order* for most affected industries, will not significantly exceed the costs of software updates that most EAS Participants would need to implement whether or not these rule changes are adopted. Moreover, the Commission further believes that the cost of implementing the required EAS decoder equipment changes will be roughly in line with the cost of changes adopted in the *2016 Weather Alerts Order* and the *2017 Blue Alerts Order*, which similarly entailed few costs beyond the reprogramming of EAS decoder equipment. Consequently, the Commission estimates the costs of all decoder software updates needed to implement the rule changes adopted in the *Order*, most of which according to commenters in the proceeding can be bundled with “normally scheduled software releases” and performed at the same time, will cost a total of \$5 million for the industry. Additionally, small entities that have complied with previous EAS code changes have the experience, and should have the processes and procedures in place to facilitate compliance resulting in minimal incremental costs to comply with the changes in the *Order*.

92. With regard to four of the six changes cable operators have identified (CAP polling, EAN text, NPT text, and NPT script) as requiring testing, modification, and/or replacement of downstream equipment in cable operators’ networks, the Commission believes small and other cable operators will realize significant cost savings from conducting testing and downstream equipment modification in a coordinated fashion for all of these changes on the same one-year schedule, and these costs are included in the \$5 million cost ceiling. Further, since the Commission has allowed cable operators the additional time to replace set-top boxes with new equipment that no longer have the EAN label hard-wired into them which should make it possible for operators to incorporate such a specification into the new devices that will be installed in consumers’ premises in the ordinary course of business irrespective of this

requirement, in most instances, the Commission estimates the additional costs that small and other cable operators will incur to replace set-top boxes to implement this requirement over the extended six-year period following the effective date of this order should not exceed \$4.4 million.

93. The Commission believes these changes adopted in the *Order* impose minor costs for small and other entities, when compared to the substantial public safety improvements reflected in the record. While as a general matter, it is impossible to quantify the precise dollar value of improvements to the public’s safety, life, and health, the value of these changes are likely to substantially exceed the overall cost of their implementation. Thus, the Commission further believes that the value of improved public safety in reducing risk of avoidable deaths and injuries by better informing the public of pending emergencies is substantial, and outweighs the costs of the EAS changes adopted in the *Order*.

#### *F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

94. The RFA requires an agency to provide, a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

95. The actions taken by the Commission in the *Order* are intended to be minimally costly and minimally burdensome for small and other entities impacted by the rules. As such, the Commission does not expect the adopted requirements to have a significant economic impact on small entities. Below the Commission discusses actions the Commission takes in the *Order* to minimize any significant economic impact on small entities and some alternatives that were considered.

96. *Adopting A Mandatory CAP Polling and CAP Message Prioritizing Requirement.* The Commission considered but declined to adopt proposals by commenters not to implement a CAP polling requirement and to make CAP message prioritizing optional within the discretion of each EAS Participant. These alternatives were not supported by any factual information, were not justifiable because of the current unavailability of

National Weather Service (NWS) alerts in CAP format and were premised on an erroneous assumption that the Commission would adopt a uniform polling requirement for all EAS Participants. The Commission concluded that the potential benefits to public safety of increased CAP usage for non-weather related state and local emergency alerts should not be foreclosed because NWS alerts are not included. Moreover, the Commission has included sufficient flexibility in its requirements to account for unique factors affecting EAS Participants.

97. The Commission also considered but declined to grant radio broadcasters an exception from its CAP prioritization mandate. There are various reasons why radio broadcasters, like video service EAS Participants, should be required to distribute CAP messages rather than legacy-formatted messages wherever possible. Indeed, the Commission identifies various reasons why radio broadcasters, like video service EAS Participants, should be required to distribute CAP messages rather than legacy-formatted messages wherever possible, including but not limited to the fact that there are digital radio broadcasters that produce visual alerts to digital radio receivers; the use of text-to-speech has been standardized in EAS equipment and systems for over 12 years and it is routinely used and supported today and the audio generated from a CAP alert, whether from text-to-speech or from airing a CAP audio file, typically is superior in clarity and quality to that contained in a legacy alert.

98. *Changing the Three-Letter EAS Codes.* The Commission has declined to adopt its *Notice* proposals to change the three-letter codes for PEP to NAT and for EAN to NEM, which would have created both increased decoder costs and substantial downstream network equipment replacement costs for small entities and other EAS Participants. Similarly, the three-letter event code for the NPT will remain the same, which the Commission believes will also minimize the compliance burdens borne by EAS Participants. Changing only the definitions of these codes, as the *Order* does, achieves the public benefit of more comprehensible alerts, whereas changing the three-letter codes themselves does not further the goal of averting public confusion because the public does not see the three-letter codes on their screens or hear them pronounced in audio, and similarly the three-letter codes are not seen by EAS participants. Rather, the three-letter code acronyms are computer code designed to transmit specific

instructions for different alerts and to instruct EAS equipment to generate different outputs based on the codes. By leaving the codes as-is, the *Order* avoids substantial compliance costs that small entities would have otherwise faced.

99. *Timing of Compliance.* The Commission has adopted a consolidated compliance schedule allowing a full year from the effective date of the *Order* for entities to comply with all regulatory changes adopted in the *Order*, instead of requiring multiple compliance timeframes (with two exceptions discussed in the following paragraph). This approach is consistent with the Commission's past orders requiring EAS encoder software updates and will save small entities significant costs, as production and labor to make the necessary EAS encoder equipment changes can be done with a single software installation instead of multiple installations in different years and on different compliance timetables. The consolidated compliance schedule, which establishes a single deadline for compliance with multiple similar changes, also means that downstream equipment field testing and modifications can often be conducted at the same time, saving small as well as other entities the cost of scheduling additional separate field tests and upgrades at different times in different years.

100. The exceptions to the one year compliance requirement provide a six year compliance deadline for cable operators to replace downstream equipment to comply with the EAN descriptive text change, and fifteen months for downstream equipment EAN software updates. These implementation extensions will substantially reduce costs for small entities, as set-top boxes can be replaced in the ordinary course of business per the normal lifecycle of this equipment, instead of requiring a large scale replacement of set-top boxes for compliance on a nearer term schedule. Accordingly, the marginal cost of compliance with the change to EAN text displayed to the public will be substantially reduced for small and all other cable operators entities including small entities.

101. *Legacy Script Change Exemption.* The Commission exempted radio broadcasters from compliance with the NPT legacy script change. The Commission did not find that the potential marginal benefit of applying the legacy script requirement to all radio broadcasters was justified when the vast majority of radio broadcasters will not produce increased alert clarity as a result of such a requirement. This exemption will reduce costs for small

and other radio broadcaster entities. Moreover, since radio broadcasters in particular make up the largest category of EAS Participants by number of entities, lessening costs for this category of EAS participants should minimize the economic impact for a substantial number of small entities.

102. *Implementation.* The Commission does not mandate how EAS equipment must be designed in order to comply with the rule changes adopted in the *Order* and will use performance standards rather than design standards to measure compliance. EAS Participants will be in compliance with the required changes as long as their EAS equipment performs the CAP polling within the specified time frame, and ensures the new code descriptive text or script is displayed to the public. Leaving the equipment modification decisions up to the industry provides small and other affected EAS Participants the flexibility to make decisions and adopt approaches that are technically and financially feasible for their businesses.

103. *Persistent Alerts.* The Commission has declined to adopt a new persistent alerting requirement in light of the record which establishes that requiring equipment updates and network changes necessary to implement this rule will introduce excessive costs to EAS Participants that are difficult to justify given the complexity and design burdens associated with their adoption. The Commission was not persuaded that implementing persistent alerts would be technically feasible in the context of the basic design of the EAS, and note that there was virtually unanimous opposition to this proposal by commenting parties, including alert originators, SECCs, EAS Participants, and equipment manufacturers. Further, adopting a persistent alerting requirement would have resulted in substantial equipment modifications or replacements for all affected small and other entities, and could have led to significant problems and disruptions to the overall EAS system. Such events, which would result in even greater costs in the form of fixing later-arising problems or malfunctions, and would have further increased costs for all EAS Participants and been detrimental to EAS operations and potentially to the public.

#### Report to Congress

104. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will

send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA.

#### Paperwork Reduction Act Analysis

105. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

#### Congressional Review Act

106. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

#### Incorporation by Reference

The material referenced in the regulatory text was approved for incorporation by reference on April 23, 2012, and no changes are made in this final rule.

#### Ordering Clauses

107. Accordingly, *it is ordered* that, pursuant to 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, 613, 1201, 1202(a), (b), (c), (f), 1203, 1204 and 1206, that the foregoing Report and Order *is adopted*, and the Commission's rules are hereby amended, as set forth in Appendix A of the Report & Order.

108. *It is further ordered* that that 47 U.S.C. part 11 *is amended*, as set forth below, and that this Report and Order, including the amended rules, *shall be effective* December 12, 2022.

109. *It is further ordered* that the Office of the Managing Director, Performance Evaluation and Records Management, *shall send* a copy of this Report & Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

110. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 11**

Incorporation by reference, Radio, Television.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

**PART 11—EMERGENCY ALERT SYSTEM (EAS)**

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g), 606, 1201, 1206.

■ 2. Amend § 11.2 by revising paragraph (a) to read as follows:

**§ 11.2 Definitions.**

\* \* \* \* \*

(a) *National Emergency Message (EAN).* The National Emergency Message (formerly called the Emergency Action Notification or Presidential alert message) is the notice to all EAS Participants and to the general public that the EAS has been activated for a national emergency. EAN messages that are formatted in the EAS Protocol (specified in § 11.31) are sent from a government origination point to broadcast stations and other entities participating in the National Public Warning System, and are subsequently disseminated via EAS Participants. Dissemination arrangements for EAN messages that are formatted in the EAS Protocol (specified in § 11.31) at the State and local levels are specified in the State and Local Area plans (defined at § 11.21). A national activation of the EAS for a Presidential National Emergency Message with the Event code EAN as specified in § 11.31 must take priority over any other message and preempt it if it is in progress.

\* \* \* \* \*

■ 3. Amend § 11.16 by revising paragraph (a) and removing paragraph (c) to read as follows:

**§ 11.16 National Control Point Procedures.**

\* \* \* \* \*

(a) *National Level EAS Activation.* This section contains the activation and termination instructions for the National Emergency Message.

\* \* \* \* \*

■ 4. Revise § 11.18 to read as follows:

**§ 11.18 EAS Designations.**

(a) A Primary Entry Point (PEP) is a private or commercial radio broadcast

station that cooperatively participates with FEMA to provide EAS alerts to the public. PEPs are the primary source of initial broadcast for a Presidential Alert. A PEP is equipped with back-up communications equipment and power generators designed to enable it to continue broadcasting information to the public during and after disasters of national significance. The National Public Warning System (formerly called the Primary Entry Point System) is a nationwide network of broadcast stations and satellite operators used to distribute EAS alerts formatted in the EAS Protocol. FEMA is responsible for designating broadcast stations as PEPs.

(b) A National Primary (NP) is an entity tasked with the primary responsibility of receiving the National Emergency Message from a PEP and delivering it to an individual state or portion of a state. In states without a PEP, the NP is responsible for receiving the National Emergency Message from an out-of-state PEP and transmitting it to the public and other EAS Participants in the state. Multiple entities may be charged with primary responsibility for delivering the National Emergency Message.

(c) A State Primary (SP) is an entity tasked with initiating the delivery of EAS alerts other than the National Emergency Message.

(d) A State Relay (SR) is an entity not otherwise designated that is charged with retransmitting EAS alerts for the purpose of being monitored by a Local Primary or Participating National. SRs must monitor or deliver EAS alerts as required by the State EAS Plan.

(e) A State Relay Network (SRN) is a network composed of State Relay (SR) sources, leased common carrier communications facilities, or any other available communication facilities. The network distributes State EAS messages originated by the Governor or designated official. In addition to EAS monitoring, satellites, microwave, FM subcarrier, or any other communications technology may be used to distribute State emergency messages.

(f) A Local Primary (LP) is an entity that serves as a monitoring assignment for other EAS Participants within the state. LP sources may be assigned numbers (e.g., LP-1, 2, 3) and are relied on as monitoring sources by other EAS Participants in the Local Area. An LP may monitor any other station, including another LP, as set forth in the State EAS Plan, so long as doing so avoids creating a single point of failure in the alert distribution hierarchy.

(g) A Participating National (PN) is an EAS Participant that transmits national, state, or Local Area EAS messages, and

is not otherwise designated within the State EAS Plan. PNs monitor LPs or other sources as set forth in the State EAS Plan.

■ 5. Amend § 11.21 by revising paragraphs (a)(2), (4), and (7) to read as follows:

**§ 11.21 State and Local Area plans and FCC Mapbook.**

\* \* \* \* \*

(a) \* \* \*

(2) Procedures for state emergency management officials, the National Weather Service, and EAS Participant personnel to transmit emergency information to the public during an emergency via the EAS, including the extent to which the state's dissemination strategy for state and local emergency alerts differs from its strategy for the National Emergency Message;

\* \* \* \* \*

(4) A monitoring assignment matrix, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for the National Emergency Message (EAN) from the NPWS to all key EAS sources (using the uniform designations specified in § 11.18) and to each station in the plan, organized by operational areas within the state. If a state's emergency alert system is capable of initiating EAS messages formatted in the Common Alerting Protocol (CAP), its EAS State Plan must include specific and detailed information describing how such messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such messages;

\* \* \* \* \*

(7) The SECC governance structure utilized by the state in order to organize state and local resources to ensure the efficient and effective delivery of a National Emergency Message, including the duties of the SECC, the membership selection process utilized by the SECC, and the administrative structure of the SECC.

\* \* \* \* \*

■ 6. Amend § 11.31 by revising paragraph (d), and amending paragraph (e) by revising the entries under the heading "National codes (Required)" to read as follows:

**§ 11.31 EAS protocol.**

\* \* \* \* \*

(d)(1) The only originator codes are:

Originator	ORG code
EAS Participant .....	EAS



Originator	ORG code
Civil authorities .....	CIV
National Weather Service .....	WXR
United States Government .....	PEP

(2) Use of the previously authorized NIC originator code (National Information Center) must be discontinued by no later than December 12, 2023.

(e) \* \* \*

Nature of activation	Event codes
National codes (required):	
National Emergency Message .....	EAN
Nationwide Test of the Emergency Alert System.	NPT
Required Monthly Test .....	RMT
Required Weekly Test .....	RWT
* * * * *	

\* \* \* \* \*

■ 7. Amend § 11.51 by revising paragraphs (d), (g)(3), (h)(3), (j)(2), introductory text of paragraph (m), (m)(2), and (p) to read as follows:

**§ 11.51 EAS code and Attention Signal Transmission requirements.**

\* \* \* \* \*

(d) Analog and digital television broadcast stations, analog cable systems, digital cable systems, wireless cable systems, wireline video systems, and DBS providers shall transmit a visual message containing the Originator, Event, and Location and the valid time period of an EAS message. Visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the “ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0” (May 17, 2010).

(1) The visual message portion of an EAS alert, whether video crawl or block text, must be displayed:

(i) At the top of the television screen or where it will not interfere with other visual messages

(ii) In a manner (*i.e.*, font size, color, contrast, location, and speed) that is readily readable and understandable,

(iii) In a manner that does not contain overlapping lines of EAS text or extend beyond the viewable display (except for video crawls that intentionally scroll on and off of the screen), and

(iv) In full at least once during any EAS message.

(2) The audio portion of an EAS message must play in full at least once during any EAS message.

(3) On and after December 12, 2023,

(i) The portion of the required visual message corresponding with the Originator Code shall use the term in the first column in the table in § 11.31(d) corresponding to the ORG code in the second column of that table.

(ii) The portion of the required visual message corresponding with the Event Code shall use the term in the first column in the table in § 11.31(e) corresponding to the Event code in the second column of that table, except as set forth in paragraphs (d)(3)(iii) and (d)(5) of this section.

(iii) Notwithstanding paragraphs (d)(3)(i) and (ii) of this section, if the header codes of the received EAS message specify the NPT Event code and the “All U.S.” location code, and if the received EAS message is formatted in the EAS protocol, then the required visual message shall consist of the following text instead of replicating the terms of the Originator, Event, and Location codes: “This is a nationwide test of the Emergency Alert System, issued by the Federal Emergency Management Agency, covering the United States from [time] until [time]. This is only a test. No action is required by the public.” The “from [time] until [time]” portion of the text required in the preceding sentence shall be determined from the alert’s release date/time and valid time period header codes specified at § 11.31(c).

(4) Prior to December 12, 2023, the required visual message shall either conform to paragraph (d)(3) or, in the alternative, shall display—

(i) The term “Emergency Action Notification” as the portion of the visual message corresponding to the EAN Event code if the header codes of the received EAS message specify the EAN Event code.

(ii) The term “National Periodic Test” as the portion of the visual message corresponding to the NPT Event code if the header codes of the received EAS message specify the NPT Event code.

(iii) The term “Primary Entry Point” as the portion of the visual message corresponding to the PEP Originator code if the header codes of the received EAS message specify the PEP Originator code.

(5) If the EAS Participant is an analog or digital cable system subject to paragraphs (g) or (h) of this section, then—

(i) If, with respect to a particular subscriber, the portion of the required visual message corresponding to the EAN event code can be altered by means of software upgrades or other changes that do not require replacement of the subscriber’s navigation device, then, prior to March 12, 2024, the portion of

the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with either paragraph (d)(3)(ii) or (d)(4)(i) of this section; after that date, the portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with paragraph (d)(3)(ii) of this section.

(ii) If, with respect to a particular subscriber, no alterations to the portion of the required visual message corresponding to the EAN event code can be implemented unless the subscriber’s navigation device is replaced with a device that is capable of displaying the visual message corresponding to the EAN event code as set forth in paragraph (d)(3)(ii) of this section then, prior to December 12, 2028 or the date when the subscriber’s navigation device is replaced, whichever occurs earliest—

(A) The portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with either paragraph (d)(3)(ii) or paragraph (d)(4)(i) of this section; thereafter, the portion of the required visual message displayed to the subscriber corresponding to the EAN Event code shall comply with paragraph (d)(3)(ii) of this section.

(B) If the operator of the cable system makes the navigation device available to the subscriber as “associated equipment” in connection with a cable service, as the term “associated equipment” is used in part 76, subpart N of this chapter, and a subscriber who is deaf or hard of hearing requests that the cable system operator provide a navigation device that is capable of displaying a visual message that complies with paragraph (d)(1) of this section, to replace a navigation device that lacks such capability, then the cable system operator shall provide and, if necessary, install such replacement navigation device within a reasonable period of time, to the same extent required and on the same terms and conditions as set forth at § 79.108 of this chapter. This paragraph (d)(5)(ii)(B) applies only to subscribers who state that they are deaf or hard of hearing or a household member who is deaf or hard of hearing.

(iii) Prior to December 12, 2028, the cable system operator must prominently display on its website information regarding the availability of replacement navigation devices to eligible subscribers as set forth in paragraph (d)(5)(ii)(B) of this section, in the same manner as provided at § 79.108(d)(2) of this chapter.

(iv) For purposes of this 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 § 76.1200(c) of this chapter.

\* \* \* \* \*

(g) \* \* \*

(3) Shall transmit a visual EAS message on at least one channel. The visual message shall comply with the requirements in paragraph (d) of this section.

\* \* \* \* \*

(h) \* \* \*

(3) Shall transmit the EAS visual message on all downstream channels. The visual message shall comply with the requirements in paragraph (d) of this section.

\* \* \* \* \*

(j) \* \* \*

(2) The visual message shall comply with the requirements in paragraph (d) of this section.

\* \* \* \* \*

(m) EAS Participants are required to transmit all received EAS messages in which the header code contains the Event code for National Emergency Message (EAN), Nationwide Test of the Emergency Alert System (NPT), or Required Monthly Test (RMT), and when the accompanying location codes include their State or State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL-code which identifies the EAS Participant retransmitting the message. See § 11.31(c). If an EAS source originates an EAS message with any of the Event codes listed in this paragraph, it must include the location codes for the State(s) and counties in its service area. When transmitting the required weekly test, EAS Participants shall use the event code RWT. The location codes are the state and county for the broadcast station city of license or system community or city. Other location codes may be included upon approval of station or system management. EAS messages may be transmitted automatically or manually.

\* \* \* \* \*

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the National Emergency Message (EAN) Event code or the Nationwide Test of the Emergency Alert System (NPT) Event code must be transmitted immediately. Monthly EAS test messages must be transmitted within 60 minutes. All actions must be logged and include the minimum information required for EAS video messages.

\* \* \* \* \*

(p) The material listed in this paragraph (p) is incorporated by

reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact FCC at the address indicated in 47 CFR 0.401(a) of this chapter (Reference Information Center). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov*, or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html*. The material may be obtained from the following source in this paragraph (p).

\* \* \* \* \*

■ 8. Amend § 11.52 by revising paragraphs (d)(2) and (e) to read as follows:

**§ 11.52 EAS code and Attention Signal Monitoring requirements.**

\* \* \* \* \*

(d) \* \* \*

(2) With respect to monitoring EAS messages formatted in accordance with the specifications set forth in § 11.56(a)(2), EAS Participants' EAS equipment must 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.

\* \* \* \* \*

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for National Emergency Message (EAN), the Nationwide Test of the Emergency Alert System (NPT), or the Required Monthly Test (RMT) for their State or State/county location.

\* \* \* \* \*

■ 9. Amend § 11.55 by:

■ a. Revising the introductory text of paragraph (c) and paragraphs (c)(1) and (2);

■ b. Removing paragraph (c)(3);

■ c. Redesignating paragraph (c)(4) as paragraph (c)(3) and revising it;

■ d. Redesignating paragraphs (c)(5) through (8) as paragraphs (c)(4) through (7), respectively; and

■ e. Revising the introductory text of paragraph (d) and paragraph (d)(2).

The revisions read as follows:

**§ 11.55 EAS operation during a State or Local Area emergency.**

\* \* \* \* \*

(c) An EAS Participant that participates 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, must do the following:

(1) Prior to December 12, 2023, the EAS Participant shall follow the procedures set forth in the State EAS Plan and paragraphs (c)(3) through(7) of this section.

(2) On and after December 12, 2023,—

(i) *CAP Prioritization*. If a message formatted in the Common Alerting Protocol is available that is a duplicate of the received message formatted in the EAS Protocol, then the EAS Participant shall not transmit the received message formatted in the EAS Protocol but shall follow the procedures in paragraph (d) of this section to transmit the message formatted in the Common Alerting Protocol.

(ii) *Polling*. At least ten (10) seconds after detecting the initial header code of a received message formatted in the EAS protocol, if the EAS Participant has not by that time determined that a duplicate message formatted in the Common Alerting Protocol is available, it shall poll the Federal Emergency Management Agency's Integrated Public Alert and Warning System (IPAWS) at least once to determine whether a duplicate CAP-formatted alert message is available.

(A) If a duplicate CAP-formatted alert message is available, the EAS Participant shall proceed according to paragraphs (c)(2)(i) and (d) of this section.

(B) If no duplicate CAP-formatted alert message is available, or if the alert contents, including the audio message, cannot be acquired within a reasonable timeframe, the EAS Participant shall proceed according to paragraphs (c)(3)–(7) of this section.

(iii) For purposes of this paragraph (c)(2), two EAS messages are

"duplicates" if the originator codes, event codes, location codes, and date-time codes in the validated headers of both messages are all identical, and the valid time-period codes in the headers of both messages cover approximately the same periods of time, with allowances for the different manners in

which messages in CAP and legacy EAS formats express valid time periods.

(3) EAS Participants participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in their State and Local Area Plans. Analog and digital television broadcast stations must transmit all EAS announcements visually and aurally as specified in § 11.51(a) through (e) and 73.1250(h) of this chapter, as applicable; analog cable systems, digital cable systems, wireless cable systems, and wireline video systems must transmit all EAS announcements visually and aurally as specified in § 11.51(d), (g), and (h); and DBS providers must transmit all EAS announcements visually and aurally as specified in § 11.51(d) and (j). EAS Participants providing foreign language programming should transmit all EAS announcements in the same language as the primary language of the EAS Participant.

\* \* \* \* \*

(d) An EAS Participant that participates 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, must do the following:

\* \* \* \* \*

(2) Analog and digital television broadcast stations must transmit all EAS announcements visually and aurally as specified in § 11.51(a) through (e) and 73.1250(h) of this chapter, as applicable; analog cable systems, digital cable systems, wireless cable systems, and wireline video systems must transmit all EAS announcements visually and aurally as specified in § 11.51(d), (g), and (h); and DBS providers must transmit all EAS announcements visually and aurally as specified in § 11.51(d) and (j). EAS Participants providing foreign language programming should transmit all EAS announcements in the same language as the primary language of the EAS Participant.

\* \* \* \* \*

■ 10. Amend § 11.56 by revising the introductory text of paragraph (d) to read as follows:

**§ 11.56 Obligation to process CAP-formatted EAS messages.**

\* \* \* \* \*

(d) The material listed in this paragraph (d) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1

CFR part 51. To enforce any edition other than that specified in this section, the Federal Communications Commission (FCC) must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the FCC and at the National Archives and Records Administration (NARA). Contact FCC at: the address indicated in 47 CFR 0.401(a) of this chapter (Reference Information Center). For information on the availability of this material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>. The material may be obtained from the following sources in this paragraph (d).

\* \* \* \* \*

■ 11. Amend § 11.61 by adding paragraph (a)(1)(iv) and revising the paragraph heading to paragraph (a)(3) to read as follows:

**§ 11.61 Tests of EAS procedures.**

(a) \* \* \*

(1) \* \* \*

(iv) Upon receipt of an EAS message in the EAS Protocol format with the Required Monthly Test (RMT) event code, an EAS Participant shall follow the steps set forth in § 11.55(c)(1) through(3).

\* \* \* \* \*

(3) Nationwide Tests of the Emergency Alert System (NPT) (national tests).

\* \* \* \* \*

[FR Doc. 2022-23408 Filed 11-9-22; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[EB Docket No. 20-374; FCC 21-75; FR ID 112274]

**Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of compliance date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved an information collection associated with rules governing Implementing the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act). The Commission also announces that private entities may

begin submitting information in the Private Entity Robocall Portal. It removes paragraphs advising that compliance was not required until OMB approval was obtained. This document is consistent with the 2021 Report and Order, which states the Commission will publish a document in the **Federal Register** announcing a compliance date for the rule sections and revise the rules accordingly.

**DATES:**

*Effective date:* The amendments are effective November 10, 2022.

*Compliance date:* Compliance with 47 CFR 64.1204(a) and 64.1606(a), published at 86 FR 52840 on September 23, 2021, is required as of November 10, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Daniel Stepanicich, Enforcement Bureau, Telecommunications Consumers Division, at (202) 418-7451 or [daniel.stepanicich@fcc.gov](mailto:daniel.stepanicich@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

This document announces that OMB approved the information collection requirements in §§ 64.1204(a) and 64.1606(a) on November 16, 2021.

The Commission publishes this document as an announcement of the compliance date of the rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060-1296. Please include the applicable OMB Control Number in your correspondence. The Commission will also accept your comments via email at [PRA@fcc.gov](mailto:PRA@fcc.gov).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

**Synopsis**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 16, 2021, for the information collection requirements contained in §§ 64.1204(a) and 64.1606(a). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a