

ALERT

FCC Releases Order Specifying CAP-Related Requirements for the Emergency Alert System (EAS)

January 17, 2012

On January 10, 2012, the Federal Communications Commission (FCC or Commission) released a *Fifth Report and Order (Fifth R&O)* that revises Part 11 of its rules governing the Emergency Alert System (EAS) to specify the manner in which EAS participants must be able to receive alert messages formatted in the Common Alerting Protocol (CAP). As the FCC notes, it had already adopted the general requirement that EAS participants be able to receive CAP-formatted messages in the *Second Report and Order* in this proceeding. Thus, the *Fifth R&O* does not impose new obligations, but codifies in detail how EAS participants should implement this requirement. EAS participants must comply with the CAP-related regulations by June 30, 2012.

The current EAS system requires broadcasters, cable operators, and other EAS participants to have the capability to carry an address by the President in the event of a national emergency and allows them to distribute on a voluntary basis alerts issued by state and local governments and the National Weather Service. The FCC indicates that its CAP-related rules will enable EAS participants and alert initiators to integrate the EAS with other federal, state, and local CAP-based alerting systems, thus improving the effectiveness and reliability of the current system. At this point, the Commission adopts a transitional approach that maintains the existing legacy EAS while ensuring that EAS equipment will be capable of receiving and converting CAP-formatted messages, noting that a fully CAP-based alerting system is technically infeasible at this time.

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The *Fifth R&O* specifies that EAS participants must be able to receive CAP-formatted alert messages and convert them into messages formatted in the current EAS Protocol, following procedures set forth in the EAS-CAP Industry Group's (ECIG) Implementation Guide. Under the rules, EAS participants are required to use enhanced CAP functionality that will improve the accessibility of alerts for persons with disabilities. In particular, EAS participants who receive CAP-formatted alerts must create video crawls based upon the enhanced text in CAP messages to the extent such files are provided by the alert initiator.

The Commission clarifies that EAS providers are allowed to use intermediary devices in conjunction with their existing EAS equipment to satisfy their CAP-related obligations, observing that this can be a cost-effective option and that some EAS participants have already purchased such devices. Because EAS participants must now utilize the enhanced text in CAP messages to provide a visual display, the agency mandates that any intermediary devices provide this functionality by June 30, 2015. Any EAS devices that perform the functions of converting CAP-formatted messages into the EAS Protocol, including intermediary devices, must be certified under the FCC's Part 11 rules.

EAS participants also must monitor the Federal Emergency Management Agency's (FEMA) Integrated Public Alert and Warning System (IPAWS) for federal CAP-formatted alert messages through an interface technology, though the FCC declined to require a specific technical standard for CAP monitoring because of the likelihood that such technologies will evolve. However, the Commission eliminates the requirement that EAS participants receive and transmit CAP-formatted messages initiated by state governors, reasoning that such a requirement would be difficult and costly to implement and would duplicate features offered by the IPAWS.

Further, the *Fifth R&O* streamlines Part 11 rules governing the processing of Emergency Action Notifications (EAN) and eliminates as unnecessary other Part 11 provisions, including the Emergency Action Termination (EAT) event code and the Non-Participating National (NN) status.

The Commission will consider granting waivers of the obligation to monitor, receive, and process CAP-formatted messages on a case-by-case basis, and the physical unavailability of broadband Internet access offers a presumption in favor of a waiver. Such waivers will likely not exceed six months, the Commission notes, but the agency will provide the option of renewal if circumstances have not changed.