

FCC Proposes New Obligations for Emergency Alert System Participants

July 1, 2014

On June 25, 2014, the Federal Communications Commission (FCC or Commission) adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on revisions to the Emergency Alert System (EAS) rules. EAS provides the President of the United States the ability to communicate with the public during a national emergency via a live audio transmission by requiring television and radio broadcasters, cable systems, DBS and satellite radio operators, and other service providers (together, the EAS Participants) to participate in a public warning system. EAS Participants also issue National Weather Service alerts and state and local government alerts on a voluntary basis. The proposed revisions seek to add electronic filing requirements and to standardize accessibility obligations for EAS Participants. In addition, the Commission proposes technical changes to its EAS rules in light of its experience with the first nationwide test of the EAS, which was conducted in November 2011 and during which a number of problems occurred.

The NPRM proposes to require EAS Participants to meet minimum video and audio accessibility standards when transmitting EAS alerts. The EAS rules already require that alerts be provided in both audio and visual form, and most EAS Participants utilize a crawl at the top of the screen to provide the alert visually. The Commission proposes minimum standards for visual crawls, including that the crawl be displayed at a readable speed, that the crawl be displayed continuously throughout the EAS activation, and that the crawl meet specific standards for where it is placed on the screen. The FCC also proposes to require audio and visual alerts to convey the same message. The NPRM notes that many EAS Participants utilize text-to-speech (TTS), and it seeks comment on making TTS a mandatory

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element of the EAS rules. The Commission also asks commenters to weigh the costs and benefits of the proposed accessibility rules.

In addition, the FCC proposes to require EAS Participants to submit data regarding future nationwide EAS tests electronically using the EAS Test Reporting System (ETRS). As part of the ETRS, EAS Participants would have to submit a Form One, which includes background information on each EAS Participant, within one year of the effective date of the rules and to provide updates on a yearly basis and as required by EAS State Plans. The NPRM also seeks comment on portions of the Form One that could be pre-filled from existing FCC databases.

Further, the NRPM seeks comment on establishing a national location code for EAS alerts issued by the President and on creating an option to use the National Periodic Test (NPT) code rather than the Emergency Action Notification (EAN) for future nationwide tests. The first nationwide test involved use of the EAN, which is the live code that most closely mirrors an actual alert. The use of the EAN resulted in a variety of problems, however, including poor audio quality and short test length, as well as inconsistencies in EAS equipment programming. The Commission therefore proposes to allow use of the NPT code for future nationwide tests, but acknowledges that, depending on how the agency implements this change, EAS Participants could be forced to make significant software and hardware upgrades. The Commission thus asks commenters to address the costs of any equipment alterations that would be necessary to allow use of the NPT code for future nationwide tests.

Comments and reply comments are due 30 days and 45 days, respectively, after publication in the Federal Register.