



Federal Communications Commission
Washington, D.C. 20554
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DA 19-262

SMALL ENTITY COMPLIANCE GUIDE

**Amendment of Part 11 of the Commission's Rules
Regarding the Emergency Alert System**

FCC 18-94

PS Docket No. 15-94

PS Docket 15-91

Released July 13, 2018

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decisions regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

In the Report and Order and Further Notice of Proposed Rulemaking (*Report and Order*) in PS Docket Nos. 15-94 and 15-91, the Commission adopted rules to improve the effectiveness and reliability of the Emergency Alert System (EAS). Specifically, the *Report and Order* (i) adopts requirements for performing “Live Code Tests,” which are local and regional tests of the EAS that use the same alert codes as, and function identically to, alerts issued for an actual emergency, and help communities train first responders and other emergency response personnel in how to respond to actual alerts; (ii) adopts requirements for public service announcements to include the EAS Attention Signal (the attention-grabbing, 8-second, two-tone audio signal) and a simulation of the EAS Header Code tones (three audible tones that follow precede the Attention Signal); and (iii) to help prevent false alerts, adopts requirements that EAS Participants configure their EAS equipment to reject Common Alerting Protocol (CAP)-based alerts that contain an invalid digital signature and legacy (over-the-air)-based alerts whose origination and/or expiration times fail to fall within certain time specifications.

These rule changes will improve the effectiveness and reliability of the EAS by making it simpler and easier for local officials to test the EAS, and by permitting use of the EAS Attention Signal and a simulation of the EAS header codes (provided by the Federal Emergency Management Agency (FEMA)) in Public Service Announcements (PSAs) that improve awareness of the EAS. The rule changes also strengthen EAS reliability by implementing a minimally burdensome false alert reporting requirement, which will improve the Commission’s awareness of and capacity to help address and remediate false alerts, and improving the alert validation process that EAS equipment automatically perform to prevent erroneous transmission of alerts.

II. COMPLIANCE REQUIREMENTS

The *Report and Order* makes rule changes to: (1) the alert validation requirements in section 11.33; (2) the prohibition on false or deceptive EAS transmission requirements in section 11.45; (3) the requirements for EAS public service announcements in section 11.46; (4) the requirements for processing CAP-formatted EAS messages in section 11.56; and (5) the testing requirements in section 11.61.

Alert Validation Requirements (47 CFR § 11.33(a)(10))

- The amended rule requires EAS decoders, as part of their alert message validation process, to ensure that the incoming alert’s origination time / date is not more than 15 minutes in the future (of the time / date received) and that the expiration time occurs in the future (i.e., that the time when the alert is received by the EAS equipment is between the origination time minus 15 minutes and the expiration time).

Prohibition on False or Deceptive EAS Transmissions (47 CFR § 11.45(b))

- The amended rule adds a new false alerting requirement, under which EAS Participants will be required to report to the Commission (by emailing the FCC Ops Center at FCCOPS@fcc.gov) within 24 hours of discovering (i.e., having actual knowledge) that it has transmitted or otherwise sent a false alert to the public. The email report should describe the event and any details that the EAS Participant may have concerning the event.

Public Service Announcements (47 CFR § 11.46)

- The amended rule lays out procedures by which federal, state, and local government entities, or non-governmental organizations, may include the EAS Attention Signal and a simulation of the EAS header codes (that has been provided by FEMA for this purpose) in EAS Public Service Announcements (which include commercially-sponsored announcements, infomercials, or programs).
- The amended rule allows EAS Participants to the EAS Attention Signal and a simulation of the EAS codes as provided by FEMA in EAS Public Service Announcements (PSAs) (including commercially-sponsored announcements, infomercials, or programs) provided by federal, state, and local government entities, or non-governmental organizations, to raise public awareness about emergency alerting. This usage is only permitted if the PSA is presented in a non-misleading and technically harmless manner, including with the explicit statement that the Attention Signal and EAS code simulation are being used in the context of a PSA for the purpose of educating the viewing or listening public about emergency alerting.

Obligation to Process CAP-Formatted EAS Messages (47 CFR § 11.56(c))

- The amended rule requires EAS Participants to configure their EAS equipment to reject any CAP-formatted EAS message that does not include a valid digital signature.

Testing Requirements (47 CFR § 11.61(a)(5))

- The amended rule adopts new procedures by which EAS Participants may participate in “Live Code Tests,” which are local and regional tests of the EAS that use the same alert codes as, and function identically to, alerts issued for actual emergencies. Live Code Tests help communities train first responders and other emergency response personnel in how to respond to actual alerts.
- The new Live Code Test procedures allow EAS Participants to participate in no more than two (2) “Live Code” EAS Tests per calendar year that are conducted to exercise the EAS and raise public awareness for it, provided that the entity conducting the test:
 - (i) Notifies the public before the test that live event codes will be used, but that no emergency is, in fact, occurring;
 - (ii) States in the test message, to the extent technically feasible, that the event is only a test;
 - (iii) Coordinates the test among EAS Participants and with state and local emergency authorities, the relevant SECC (or SECCs, if the test could affect multiple states), and first responder organizations, such as PSAPs, police, and fire agencies); and
 - (iv) Ensures that the required notification to the public that the test is only a test, and is not a warning about an actual emergency, contained in the EAS alert transmission to the public complies with the alert accessibility standards (requiring that the visual text crawl associated with the alert be readily readable and understandable, is provided in widely accessible formats, and that the audio portion must be played in full at least once during

the alert transmission) in section 11.51 of the EAS rules.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The *Report and Order* contains new information collection requirements associated with false alert reporting and Live Code Testing:

- Amended section 11.45 requires that EAS Participants report to the Commission (by emailing the FCC Ops Center at FCCOPS@fcc.gov) within twenty-four (24) hours of discovering that it has transmitted or otherwise sent a false alert to the public.
- The new Live Code Test rules added to section 11.61 include new reporting requirements by requiring the entity conducting the test to, among other things:
 - (i) Notify the public before the test that live event codes will be used, but that no emergency is, in fact, occurring;
 - (ii) State in the test message, to the extent technically feasible, that the event is only a test; and
 - (iii) Ensure that the required notification to the public that the test is only a test, and is not a warning about an actual emergency, contained in the EAS alert transmission to the public complies with the alert accessibility standards (requiring that the visual text crawl associated with the alert be readily readable and understandable, and that the audio portion must be played in full at least once during the alert transmission) in section 11.51 of the EAS rules.

IV. IMPLEMENTATION DATE

The following rules in the *Report and Order* became effective thirty (30) days after publication of the text or summary thereof in the Federal Register: 47 CFR 11.45(a) and 47 CFR 11.46.

The following rules in the *Report and Order* shall become effective twelve (12) months after publication of the text or summary thereof in the Federal Register (i.e., on Aug. 12, 2019): 47 CFR 11.33(a)(10) and 47 CFR 11.56(c).

The following rules in the *Report and Order* require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act: 47 CFR 11.45(b) and 47 CFR 11.61(a)(5). These rules shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

V. INTERNET LINKS

A copy of the *Report and Order* is available at:
<https://docs.fcc.gov/public/attachments/FCC-18-94A1.pdf>

A copy of the Federal Register Summary of the *Report and Order* is available at:
<https://www.govinfo.gov/content/pkg/FR-2018-08-10/pdf/2018-17096.pdf>

The EAS rules are available at:
<https://www.ecfr.gov/cgi-bin/text-idx?SID=7cd12617d91d189f9fb9dfe6b25dfc70&mc=true&node=pt47.1.11&rgn=div5>