

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Notice of Proposed Rulemaking)
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Emergency Alert System) FCC 17-74
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Proposed Rule Changes to CFR-47, Part 11.31) PSHSB Docket No. 15-94
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Addition of New Alert Code, “Blue Alert”)
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To: The Commission--)
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Comments of McCarthy Radio Enterprises, Inc.

1) McCarthy Radio Enterprises, Incorporated (“MRE”) and it’s principal Michael G. McCarthy, CSRE, CEA hereby respectfully submits it’s comments to the Notice of Proposed Rulemaking in the above captioned proceeding. The proceeding seeks comments on proposed modification of the Part 11 rules to add a “Blue Alert” Event Code for the Emergency Alert System (EAS).

2) MRE is a professional contracting technical services provider to the broadcast industry and it’s allied fields based in Chicago, IL. MRE’s principal has over 30 years in the field of professional broadcast technical and management services and allied fields. Mssr. McCarthy is a member of and is certified by the Society of Broadcast Engineers, Inc. (SBE) as a Senior Radio Engineer and Audio Engineer; a member of the Institute of Electrical and Electronics Engineers (IEEE); and a Life Member of the American Radio Relay League (ARRL). He has planned, built, and maintains AM and FM facilities in markets of varying sizes from unrated to major. Mssr. McCarthy is also a licensed radio amateur since 1983 and spent 15 years in the service of local Amateur Radio Emergency Services (ARES) and Radio Amateur Civil Emergency Services (RACES) through the 1990's and early 2000's. The comments offered herein are those of Mssr. McCarthy and MRE exclusively and do not in any way reflect, represent, express, or infer the opinions, positions, or preferences of his licensee clients, employers, or professional fraternal organizations in this or any matter before the Commission.

3) For the record, Mssr. McCarthy's service with the various amateur radio service agencies serving the local communities exposed him to a variety of civil service training and real experiences. He has a deep appreciation for the commitment sworn officers undertake daily both on and off duty. Sworn officers are never truly off duty. The comments herein bear that significant commitment in mind. He also recognizes the broad and extreme short fuse conditions and hazards presented to public safety agencies and officers on a daily basis which has resulted in the deaths of dozens of law enforcement officers across the country in the past couple years by either random or planned assaults.

4) These comments also are strictly related to Part 11, and specifically exclude comment on any such ancillary deployment within CAP (Common Alert Protocol), IPAWS (Integrated Public Alert and Warning System), WEA (wireless Emergency Alerts) and all other forms of alerting not associated with Part 11. MRE does not oppose development of a background system.

5) Comments already on file from law enforcement officers and their professional associations are noted and laudable for their intentions. But collectively, they are not fully informed as to the eventual ignorance of this proposed Event Code by broadcasters and cable systems should it be adopted. Such a presumption they will receive complete and unfettered cooperation from Part 73, 74 licensees and Part 78 cable systems EAS to forward what will be an optional Event Code is a complete false hope and hollow element upon that realization.

6) More over, MRE recognizes the fact the federal government has created the Blue Alert Act which is the driving force of this preceding and not a grass roots campaign. Never the less, statutes can be flawed, and this statute's efforts towards extending the EAS for this specific narrow application is indeed flawed and misguided. Efforts should instead be expended to improve existing detecting systems and inter-agency communications facilities to reveal plans intended to harm law enforcement officers and to react as needed to defeat those threats. That is distinctly different mission from mass alerting the public to a situation which does not specify any reaction necessary to preserve the public's singular and collective own well being.

What Is Broadcast Alerting?

7) The fundamental premise of broadcast emergency alerting is very simple: **A call-to-action to the masses for the masses to self-protect.** Such messaging consists of two equally important, yet distinctly separate missions for the broadcaster and the public at large:

- a) Uniformly and timely alert and warn the public at large of an imminent threat, hazard, and/or danger over a specific and/or significant geographic area; and
- b) Compel the public at large to react by issuing instructions or directives to assess, then actively and individually engage and initiate suitable measures to immediately protect and sustain their lives and their family's lives first, and secondarily, their personal and real property.

Alert, Protect, Survive. This has been the overriding guiding principal of broadcast emergency alerting from the days preceding CONELRAD, through EBS, to present day EAS. It is a sacred and highly regarded mission broadcast licensees and their staffs take as a function of their public trustee responsibility. Such sacred trust includes the decision of which of the 50 optional Event Codes to relay. And more importantly, which Event Codes to decline relay.

EAS Message Relay By Broadcast and Cable is Series of Inconsistent Operations, Decisions and Coverages

8) Part 11 contains very few compulsory messages for Part 73, 74 broadcast licensees and Part 78 cable operations. All of the compelled messages are federally originated except the Required Weekly Test (RWT) and Required Monthly Test (RMT). The balance of compelled messages include the primary EAN/EAT (Emergency Action Notification/Emergency Action Termination) issued by the Office of the President through the Federal Emergency Management Agency (FEMA) and National Periodic Test (NPT). Also originated by FEMA

9) After the federally mandated compulsory and test messages, each licensee decidedly determines which, if any, of the remaining 50 discretionary Event Codes addressing a broad variety of situations and conditions relevant to their communities and counties surrounding their communities to relay. Part of this decision making process includes factoring coverage area, population center(s), locations of public significance or gathering, and relationships with local agencies. Depending on the station's AM, FM , or TV Class, AM or FM/TV power, AM radiator efficiency, and FM/TV height above average terrain, some stations coverage radius will cover a hundred kilometers, others less than 10 kilometers. Some even less at night. And still other radiation patterns are such that some areas receive extended coverage while other areas can not receive the station's signal, yet visually see the tower's obstruction markings at grade. Part 78 cable/subscriber system coverages and penetrations diverge greatly as well.

10) Additionally, each broadcast station and cable system operates differently. Their mode of operation, staffing, committed resources, and commitment to public information varies by market size/population, format, and decided direction to inform the public through more traditional news broadcast modes. No two operations are alike. Even those commonly owned and managed by the same officers or licensees, with shared staff, in the same building. The reasons and methods licensees reached their event codes to relay decision are varied and outside the scope of this proceeding. The end result is usually the same.

11) Ultimately and in most cases, a directed decision by the licensee is given to local operating staff to not air anything more than legally required. It's that simple. The present day reality is the vast majority of stations and cable systems decidedly elect to relay only a select few, if *any* non-compulsory messages. The altruistic licensees or cable systems who do choose to relay EAS messages typically relay only a limited selection of Event Code messages which are known to regularly significantly impact their communities, their surrounding county and/or select counties. And the vast majority of EAS messages relayed on those stations and cable systems are alerting of short fuse weather and environmental conditions. All of which is in line with the intention of the EAS. Almost none carry optional administrative or non-environmental messages. Which the BLU Event Code would be considered in the decision making process.

12) However a licensee reaches their decision of which messages to relay or not relay, the overall end result is often the same: An inconsistently functional EAS, varied by station systems, area and state plans and operating practices, and varying coverages. And such operations are hamstrung by ambiguous Commission rules with little operational engagement and standards guidance to local and state operating committees other than directives for federal messages.

Event Codes Already Exist For Blue Alert Purpose

13) Unlike the Child Abduction (CAE) Event Code which didn't have any suitable pre-existing event codes on which to base such messages, the Blue Alert mission is already served by one, if not several existing Event Codes created and contemplated for such use. The instant Proposal cites Event Code LEW (Law Enforcement Warning) as being a leading candidate for such use. However, LAE (Local Area Emergency) and CEM (Civil Emergency Message) Event Codes can also be used to alert the public to situations or scenarios where law enforcement officials are in peril and/or require the public's notification of same as well as self-protection. Again, this presumes local licensees choose to relay those Event Codes in the first place. And again, most do not relay these discretionary Event Codes.

14) The LEW, LAE, and CEM Event Codes are broadly applicable codes to address and cover any number of overlapping hazard and peril scenarios presented to law enforcement and civil officials. As such, the BLU Event Code would be superfluous and would only further confuse the public as to EAS's true intended mission.

15) The Commission and/or FEMA could and should aid emergency managers and broadcasters by providing them guidance on standardized scenarios for any of the Event Codes to be employed. Such as the instant matter being discussed using the LEW, and leave the LAE or CEM for road closures, etc. The same guidance is needed for all the ambiguous Event Codes which appear to span multiple and overlapping scenarios. Industry has been asking for guidance on how to uniformly apply the Event Codes. Indeed, guidance please!!

Vanity Event Codes

16) When the “AMBER” movement occurred, the Commission deviated the EAS from its stated purpose of mass alerting for the mass’s total public benefit. It instead created a mass alerting tool for the benefit of one or few. And in doing so, the public’s well established perception of EBS/EAS veered from “Oh wait, pay attention. Something big is happening.” to one which many have contemporarily concluded, “Which non-custodial parent has taken a kid today?” The CEA event code has diminished the value of EAS at the benefit of political officials who myopically sought a vehicle to appease a poorly informed public demanding “something, anything” be done when children are abducted. Far too often now are states and their jurisdictional overseers deviating from their own protocols intended to limit Amber Alert issuance to expressly select conditions. Instead, they have devolved into a “cover thy posterior” mode sending just about anything submitted from local agencies so as to not be subject to scrutiny when a search is unsuccessful. This includes when the abductor is a known non-custodial parent or a person known to the family.

17) The ultimate cost and public at large peril is an increasingly common tune-out where the EAS pre-ample is heard with the public thinking another child is with a non-custodial parent. Vanity messages simply furthers the “cry wolf” syndrome. Much the same as “message flooding” simply dilutes the importance of these messages. The public hears of the one, singular instead of learning a tornado is bearing down on their community. Or that a dam breach is imminent. Or a Tsunami is approaching the coast. Or that an avalanche is coming to bear impact on a specific valley and it’s filled ski resorts. Or that a train carrying crude oil has derailed in the town center and cars are leaking. Or a downburst flash flood racing down a river bottom towards a campground. These vanity event messages practice the narrow needs of the one outweighing the good for the masses, and is counter to the “broad” in broadcasting. They are a “feel good” device rather than providing a true public benefit.. The proposed “BLU” event code is simply another vanity Event Code intended to meet the needs of the one/few at the expense of further eroding the intrinsic value of mass alerting for more significant and substantiative mass call-to-action notifications.

18) Every EAS message sent which doesn't directly impact the substantial public at large in a given broadcast station's coverage area or cable system subscriber pool diminishes the value and reputation of the EAS for that listening and/or viewing public. Which then ultimately diminishes that public's safety and well being as a result. Licensees do in fact recognize that reality and have by-in large ignored the CAE along with many other far more worthy mass and time perishable notification Event Codes which they should relay, but do not for any number of divergent and unique reasons. I see nothing to suggest anything but the same "deference to decline" would occur with the BLU Event Code should it be adopted.

Private Radio Systems Are Far Superior and More Suitable For the Stated Mission

19) If the intended goal is to use broadcast EAS as an interagency alerting tool, the notion is completely and utterly misguided. Broadcast and cable is not, nor should they be the local police department's mutual aid siren. As the proposed event code would be voluntary relay, the vast majority of stations will simply ignore it's existence and subsequent issuance lest specific licensees being actively engaged with the local authorities having jurisdiction (AHJ) to carry local messages. The end result will be zero reaction or assistance from the public, let alone any other agency unless they are incidentally listening. In other words, nothing would change and the situation would remain unaltered or aided. Nothing gained, much lost.

20) More over, such an event will more likely be treated as "breaking" news, even as a breaking news story worthy of an interruption for an "important news bulletin". Stations offering coverage from that perspective will in effect provide the public with the necessary information on which to predicate their actions if any are needed. The message propagates, but the public is not shocked in the process by hearing EAS pre-amble headers.

21) Conversely, the massive inter-agency communications upgrade efforts laid in place following the 9/11 events at the World Trade Center, Pentagon and Shanksville, Pennsylvania will yield instantaneous diverse and far reaching notification to surrounding agencies needing said notification to institute their own plans and to provide mutual aid assistance. Such

interagency notification is best done by those and other well established, robust, privately managed and controlled mission specific law enforcement, municipal, county and state radio and data systems than broadcast. This would specifically apply to cross state line communications where such notification mutual aid communications would occur as a matter of established protocol than by special alert. Such successful notifications would be very unlikely for EAS as there are few instances where state plans engage and/or consider neighboring states or local plans absent a metropolitan area straddling state borders. Never mind a time perishability limitation on any call of assistance.

Geo-Targeting Not Viable At This Time

22) At para 10 of the proposal, the Commission seeks input on geo-targeting of message transmission. Broadcast EAS through it's various state and local plans has not placed into service sub-county geographic subdivisions. At present, alerting is only possible to entire counties lest a major change by FEMA and the National Weather Service is implemented in their distribution systems.

23) More over, it will be extremely difficult to geo-target specific areas within a given county using by the EAS and not perceptually warn the entire county and associated total listening public of a given main channel broadcast signal. Simply put, broadcast by it's nature is a wide coverage medium without an ability to limit their message to a finite segment of the public. Broadcast is in effect the equivalent of a tuba where everyone hears the station. Especially with wide coverage Class A AM, Class C and C-1 FM, and full class power and height TV stations covering radius areas in excess of 100KM and potentially millions of people with their audible series of header data bursts and audio message regardless of any targeted sub-division. Broadcast activation of these singleton highly localized finite messages are in essence that tuba where a better suited instrument for the application would be a piccolo flute. Broadcast EAS is simply the wrong vehicle for micro-area notification even with county sub-divisions enabled in it's current main channel/sub-channel audible only incarnation.

State's "Blue" Statutes Specifically Omit EAS

24) 27 states have enacted concurring "Blue" statutes which address the needs of improved inter-agency communications for when law enforcement officers are in direct peril. However, any number of those statutes exclude the use of EAS in their plans. In Illinois, the text of statute Public Act 99-0268 "Crimes Against Police Officers Advisory" (20 ILCS 2605/2605-595) enacted in 2014 specifically does not include the use of the EAS. To wit:

"(f) The Department of State Police may partner with media, and may request a media broadcast concerning details of the suspect in order to obtain the public's assistance in locating the suspect or vehicle used in the offense, or both. "

<http://ilga.gov/legislation/publicacts/fulltext.asp?Name=098-0263&GA=98>

MRE finds that purposeful exclusion to be perfectly consistent with their view the role of EAS plays in public notification.

Potential Public Endangerment and Confusion

25) The above referenced statute also contains a paragraph which also decidedly questions the entire premise of alerting of the public and cites a potential public hazard or interference creation as an unintended consequence of such alerting. The statute further states:

"(e) The Department of State Police shall reserve the authority to determine if dissemination of the information will pose a significant risk to the public or jeopardize the investigation."

It is also a licensee's responsibility to know when to avoid creating mass confusion or hysteria. Aside from the decisions made by the licensee, most local station managers practice a "better to state an event as a news event story than as an EAS bulletin" policy. The instant scenario would

also fall into that category and is consistent in the decision to carry or not relay a given Event Codes and associated messages for that station or cable system.

26) In addition to the foregoing, the public at large is simply not knowledgeable of the Event Codes available to emergency managers. In fact, most emergency managers don't know them either. The public doesn't, and will never know the difference between a LEW, LAE, or BLU alert on a conventional radio. We concede this might be different on TV with their methods of text crawling after the fact. But that still does not eliminate the message type confusion and what each Event Code should mean to industry and public. All the listener or viewer will hear is the EAS preamble headers and the voice message, followed by the EOM before any crawl appears on the TV. Unless a listener has a suitable equipped receiver/decoder to differentiate the Event Code, not a single radio or aural TV listener will ever distinguish the difference of the alert codes. The differentiating of the message will occur in the embedded voice content. Adding the BLU Event Code would only increase such Event Code confusion. Not clarify it.

27) Additionally, it is not the broadcast media's exclusive obligation to educate the public and emergency managers to the fact there are over 50 Event Codes and their intended applications. No public education efforts that we're aware have taken place anywhere in the country. And there is not a single broadcast receiver decoder available to the public which will tell that receiver's owner the message Event Code sent in any given alert. This is much the same as most any number of broadcast technical initiatives which have failed in the past 30 years due to lack of suitable and standardized receivers in the hands of the public. Thus EAS Event Codes remains "industry speak" only and is otherwise invisible to the public except for the spoken portion of any given message. The BLU Event Code only further muddies that murky water.

Conclusion

28) MRE believes the foregoing logical and first hand experiences should compel the Commission to recognize the folly of adding a BLU or any vanity Event Code which would unlikely ever see much, if any, relay by Part 73, 74 licensees, or Part 78 cable systems. The end

result of adding a BLU Event Code will be little accomplished, much time wasted in updating procedures, state and local plans, their review, firmware, software, routing code and station equipment. And instead, such will further confuse and erode public recognition of EAS's true intended function, EAS's intrinsic value, and increase friction between local law enforcement agencies and the media as a result of the broadcast licensee not relaying the BLU when presented such a scenario. No one wins here. But more importantly, everyone loses too.

29) The above comments notwithstanding, we do not wish to diminish in any manner the need for communications vehicles between agencies and ultimately the public where there is an imminent or in-progress hazard or threat to law enforcement officers. Adding another EAS Event Code however, is not the right tool to mitigate such hazards or threats. Or to aid in an officer's safe rescue and return to their family.

30) More over, inter-agency communications is not really even an EAS/broadcaster matter. Each law enforcement agency has a variety of inter-agency communications tools available for alerting of all surrounding law enforcement agencies in a given area in near real time. And still further, established liaison channels to the local news media can be asked to interrupt local programming for "A special news bulletin" if conditions sufficiently warrant such actions. EAS should be maintained for it's intended mission of mass public alerting for their broadly applicable benefit, safety, health, and property protection. Not for narrow vanity applications despite how well intentioned or laudable the subject matter may appear.

As such, MRE strongly believes **the addition of the proposed BLU Event Code to the list of Part 11 EAS Event Codes for broadcast and subscriber systems should not be adopted.**

Respectfully submitted:



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