Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Emergency Alert System	)	EB Docket No. 04-296

COMMENTS OF
THE NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

The National Cable & Telecommunications Association ("NCTA")[1] hereby submits its comments in response to the Second Further Notice of Proposed Rulemaking issued by the Commission in the above-captioned proceeding.[2]

In the Notice, the Commission proposes to amend Part 11 of its rules governing the Emergency Alert System ("EAS") to provide for national testing of the EAS and collection of data from such tests. The purpose of the test is "to assess for the first time the readiness and effectiveness of the EAS from top-to-bottom, *i.e.*, from origination of an alert by the President and transmission through the entire EAS daisy chain, to reception by the American public."[3] Given the potential vulnerabilities of EAS in the absence of national testing, the Commission, along with the Federal Emergency Management Agency (FEMA), the National Weather Service

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[1] NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation's cable television households and more than 200 cable program networks. The cable industry is the nation's largest provider of high-speed Internet service ("broadband") after investing over $145 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to over 20 million customers.

[2] In the Matter of Review of the Emergency Alert System, Second Further Notice of Proposed Rulemaking, EB Docket No. 04-296 (rel. Jan. 14, 2010) ("*Notice*").

[3] Notice at ¶ 23.

(NWS) and the Executive Office of the President, has joined in a multi-agency initiative to begin a national EAS test program.

The cable industry supports the Commission's proposal to modify its rules to provide for an annual systematic nationwide test of the whole EAS infrastructure in an effort to ascertain its reliability and performance. As long-standing participants in EAS, cable operators regularly conduct weekly and monthly tests pursuant to the rules as one component in the dissemination of emergency and public safety information to the public. Requiring all "EAS Participants"[4] to participate in the national test, as contemplated in the proposed rule, will enable federal authorities to evaluate every link in the delivery and transmission system and assist in addressing weaknesses in the overall EAS architecture, including from the point of message origination. Moreover, as the Commission recognizes, EAS will continue to be a critical part of the transition to Next Generation EAS. As NCTA previously asserted in this proceeding, the next generation public alert and warning system should build on the existing EAS infrastructure.[5]

With regard to the specific aspects of the proposed rule changes, we provide the cable industry's perspective on the following key provisions:

National Test: NCTA agrees that nationwide testing on a yearly basis is sufficient to evaluate EAS readiness in the event of a national emergency, as well as during state and local emergency situations. And we agree that mandating national testing no more than once-a-year will avoid unnecessary disruption of television viewership and other communications services to

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[4] "EAS Participants" include analog AM, FM and television broadcast stations, digital broadcast stations, analog cable systems, digital cable systems, wireless cable systems, Direct Broadcast Satellite (DBS) services, Satellite Digital Audio Radio Service (SDARS), and other participating entities. *See* Notice at fn 15, citing 47 C.F.R. § 11.1.

[5] *In the Matter of Review of the Emergency Alert System*, EB Docket No. 04-296, NCTA Comments and Reply Comments, filed Jan. 24, 2006 and Feb. 23, 2006, respectively.

the public. NCTA also agrees that since national EAS testing involves many of the same elements that are already required in monthly EAS testing (*e.g.* testing EAS header codes, Attention Signal, Test Script and EOM code), it makes sense to replace the required monthly test with the annual national test for the month in which it occurs, just as the Required Monthly Test (RMT) is now used to replace the Required Weekly Test (RWT) for that week.

NCTA also recommends that activation of the Presidential-level Emergency Action Notification (EAN) event code for the national test last longer than the standard two minutes used for <u>all</u> other event codes. This will ensure that the EAS equipment does not time out after two minutes as it is designed to do with all other event codes. However, this feature would need to be tested to ensure that the President's EAN message is not cut off after two minutes during an emergency. In addition, it would be helpful if a federal agency, such as the National Weather Service, or LP1 and LP2 broadcast stations, are permitted to conduct a simulated test before and after the national test. This would enable cable operators, working with these entities, to assess the proper functioning of their equipment in the event of a Presidential alert since cable operators' EAS encoders/decoders are not capable of generating an EAN message. By having the appropriate entity issue a simulated EAN message, cable operators will be able to ensure that their equipment receives and retransmits the EAN message effectively.

<u>Notice</u>: The Commission proposes giving EAS Participants two months (60 days) notice of an upcoming national EAS test. While a two-month notice period is adequate for cable operator preparation, a 90-day notice period would give cable operators the option to notify their customers 30 days in advance in their monthly bill or other means of notification. For example,

the typical cable billing cycle requires more than 60 days in order for operators to insert information on bills to give their customers 30 days notice of an upcoming action.

Reporting: The proposed rules require EAS Participants to record and submit to the Commission within thirty (30) days test-related diagnostic information for each alert received from each message source monitored at the time of the national test. Cable operators generally support the reporting concept, as many of the listed items are already recorded for weekly and monthly tests and those logs are placed in the system's public file, but we urge the Commission to design a simple and straightforward national test form and provide an easy way for operators to enter the appropriate data for mandatory reporting purposes. It also would be helpful for EAS participants to have at least a 45-60 day window to submit their test data instead of 30 days given unpredictable operational and technical demands at the system-level.[6] In addition, many cable companies have centralized government compliance and reporting departments, which review documents from the systems prior to filing. For administrative purposes, a filing period of more than 30 days will assist with accurate and complete submission of EAS reports.

Encoder/Decoder Message Relay: As the Commission notes, an inconsistency exists among various encoder/decoder manufacturers regarding how an EAN is handled, possibly affecting the ability of the equipment to relay messages. Some encoder/decoders process EAN messages by ignoring FIPS codes, *i.e*. location codes for national level messages on the assumption that a national message is intended for the entire nation. These devices transmit the message whether or not an EAN contains a valid FIPS code. At least one manufacturer's

[6] We note that Form 325, the Annual Cable Operator Report, is due 60 days after the Commission notifies operators that the form is due. 47 C.F.R. § 76.403.

encoder/decoder devices require an appropriate FIPS code under the Commission's rules in order to transmit an EAN nationwide.

The Commission's Part 11 rules, 47 C.F.R. section 11.31(c), state that EAS messages will be limited to 31 geographic codes per message. It is unclear how an EAN could be issued to 50 states and approximately 25 defined territories, waterways, and other geographic designations with the 31 location limitation. The Alaska EAS test showed that messages with incorrectly encoded parameters can be ignored as invalid by the receiving equipment. Requiring the relaying of any EAN regardless of FIPS codes would simplify the origination process. Moreover, requiring FIPS codes on an EAN severely decreases its reliability in the event of a national emergency since there are significant risks of errors in the selection of each code on the transmission side and in decoding the message by EAS participants on the receive side. Ignoring the FIPS code on an EAN will provide an accurate simulation for testing purposes with minimal decoder modification~~s~~. Alternatively, creating one national FIPS code, such as 00000, would be acceptable.

Training: In the Notice, the Commission cites recent Congressional testimony by the Government Accountability Office (GAO) asserting, among other things, the lack of EAS testing and training.[7] Cable operators have experienced many instances where improper coding by the message originator caused the EAS message to be classified as invalid and thus ignored by the EAS equipment. In addition, lapses in effective dissemination of EAS messages have occurred when a local primary station's clock is off and messages forwarded by the station are ignored as

[7] Notice at ¶ 15, citing Statement by Mark L. Goldstein, U. S. Government Accountability Office, before the House Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, at 4 -5 (Sept. 30, 2009).

expired. These and other instances of improper or invalid coding highlight the need for adequate training of EAS message originators. No matter how effective the equipment operates, the message must be encoded correctly in order to ensure that vital emergency information is disseminated throughout the system to the public.

CONCLUSION

The cable industry supports the federal government's plan to initiate an annual national test of the Emergency Alert System, consistent with the above recommendations on the proposed rules.

Respectfully submitted,

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