

17 May 2010

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Federal Communications Commission
445 12th Street SW
Washington, DC 20554

In the Matter of: EB Docket No. 04-296
 Public Notice DA 10-500

COMMENTS OF GARY E. TIMM, AN INDIVIDUAL

The following Comments are in response to the FCC request for informal comment regarding revisions to the FCC Part 11 rules governing the EAS pending adoption of the Common Alerting Protocol (CAP) by FEMA.

Although the filer of these Comments serves on a number of EAS-related committees, such as Broadcast Chair of the Wisconsin SECC and member of the Society of Broadcast Engineers (SBE) EAS Committee, the Comments below are strictly those of the filer as an individual and do not necessarily represent the views of any committee or organization with which the filer is associated. These Comments likewise do not represent the views of the filer's employer.

Part 11 sections needing clarification:

Defining governor alert must-carry requirements for stations near state borders

In §11.51 it states, "All EAS Participants within a state (excepting SDARs and DBS providers) must receive and transmit state-level and geographically targeted EAS messages, as aggregated and delivered by the state governor..." For stations located on or near state borders, the above rule does not define if these stations must carry alerts

from governors of all nearby states, or merely the governor of the state in which the station is located. In the 2007 Second Report and Order (FCC 07-109), paragraph 56 states “We find that requiring EAS Participants to receive CAP-formatted EAS messages delivered by a state governor of any state in which they provide service falls within the scope of our Title I subject matter jurisdiction as well as our public interest authority to grant licenses for radio communication under Title III of the Act.” While most stations will choose to carry any message received from a governor, there are those stations that will want to do only the bare minimum. For those stations, the minimum requirement must be defined. It would seem that the Commission needs to not only incorporate the language above into §11.51 regarding carrying the message delivered by a state governor of any state in which the station provides service, but the term “provides service” must be defined. Presumably this definition would be tied to some level of the station’s FCC-defined coverage area.

Defining must-carry geographically targeted area for governor messages

In §11.51 it states, “All EAS Participants within a state (excepting SDARs and DBS providers) must receive and transmit state-level and geographically targeted EAS messages, as aggregated and delivered by the state governor...” Who or what defines the must-carry geographically targeted area for each broadcast station? Unfortunately, there is no discussion on this specific in paragraph 64 of the 2007 Second Report and Order (FCC 07-109) which covers other aspects of geographically targeted alerts. Again, most stations will likely carry any geographically targeted message received from the governor, but for stations wanting to do only the bare minimum a description of the must-carry geographically targeted area for a given station must be defined. This appears to involve defining the geographically targeted area as some level of the station’s FCC-defined coverage area. This would require careful consideration by the Commission so as not to define huge areas as must-carry for high power stations. Some have suggested that each state SECC determine the geographically targeted area for each station. As a state SECC chair, I would find this a quite laborious task for the all-volunteer SECC to tackle, as well as there being SECC authority issues to impose and enforce these

geographically targeted area descriptions due to the lack of authority conferred to SECCs in Part 11.

Governor messages are now mandatory

In regard to the must-carry governor messages described in §11.51, it would appear that some sections of Part 11 which now reference that state messages are voluntary may need some modification to indicate that the governor's messages are must-carry. One such section is §11.52(d)(2). There may be others.

Must-carry governor message must be in CAP format

In the 2007 Second Report and Order (FCC 07-109), there are numerous references to a message from the governor becoming must-carry under CAP. Paragraph 55 states "...we conclude there are compelling policy reasons to order EAS Participants to receive CAP-formatted EAS alerts activated by state governors or their designees. We also believe that states will be more inclined to deploy the necessary resources to upgrade to Next Generation EAS, including the ability to simultaneously transmit multiple and differentiated CAP-formatted messages, if the states have a particular - and FCC-enforceable - stake in the EAS during state and local emergencies." Paragraph 56 states "... we will only require EAS Participants to receive CAP-formatted EAS messages delivered to them by a state governor (or the governor's designee), or by FEMA (or its designee) on behalf of a state." Paragraph 64 regarding geographically targeted alerts states "In order to transmit such targeted alerts, however, EAS participants must be provided with CAP-formatted messages containing appropriate codes."

In the three paragraphs above, the distinction is made that only CAP-formatted messages from the governor are must carry. However, the actual §11.55 rule does not reflect that the must-carry governor messages must be CAP-formatted. §11.55 states "All EAS Participants within a state (excepting SDARs and DBS providers) must receive and transmit state-level and geographically targeted EAS messages, as aggregated and delivered by the state governor or his/her designee, or by FEMA on behalf of such state governor, upon approval by the Commission of an applicable state plan providing for delivery of such alerts no sooner than 180 days after adoption of CAP by FEMA."

It would seem that the term “CAP-formatted” should be inserted in front of the words “EAS messages” in section §11.55. A change may also then be needed in the related section §11.21(a) covering state EAS plans.

Addressing NN Station status

In §11.18(f) the status of Non-participating National (NN) stations is defined. These stations can sign off the air rather than carry the National level EAS message. Now with a second level of EAS messages being mandatory, namely the governor’s message, what will be the exemption policy regarding carrying the governor’s message? Does the NN authorization exempt a station from the governor’s message as well? If so, must they sign off for that alert as well? Or will a category of NS, Non-participating State, be created? As an SECC Chair, I would hope that all stations would be required to carry the governor’s message with no exceptions, but it seems somewhat incongruous to offer an exemption for National messages but require the broadcast of State messages. It is perhaps time to re-examine the policy of NN authorizations. With the current automated equipment, it appears it would be easier to carry the National message than try to automate signing off, monitoring for the EAT, and returning to the air. The sign-off concept seems to be a holdover from days gone by. §11.19 states that the Commission may withdraw NN Authorization Letters, which seems the most logical step at this time given the automated state of current EAS equipment.

If the NN status is retained, the Part 11 sections dealing with NN should be modified to change the statements that now reference state messages as voluntary. Those sections are: §11.18(f) and §11.41(2).

Clarifying National level EAS operations

§11.54 describes EAS operation during a national level emergency. Both this section, and the EAS Operating Handbook which draws from this section, need to be revised to reflect the manner in which EAS endecs actually operate and to better define the intentions of the Commission regarding how a National level EAS alert is to be reacted to at individual broadcast stations and other EAS Participants.

§11.54(b)(1) states “Immediately upon receipt of an EAN message EAS Participants must monitor the two EAS sources assigned in the State or Local EAS plan or FCC Mapbook for any further instructions.” Problem: When an EAS endec receives an EAN code, it immediately puts that EAS monitored source on the air and is delivering whatever audio is being furnished by the National government as part of that EAN message. Thus, “monitoring other sources for further instructions” is not relevant here.

§11.54(b)(2)(i) says “Key EAS sources... follow the transmission procedures and make announcements in the National Level Instructions of the EAS Operating Handbook.”

Problem: Again, when an EAS endec receives an EAN code, it immediately interrupts station programming and puts that EAN alert audio on the air. At most broadcast stations, the studio audio feed is looped through the EAS endec. So for an EAN alert, the studio audio console is cut off from going on the air, with precedence being given to the EAN audio. Thus, it is not possible for individual broadcast stations to air the announcements in the EAS Operating Handbook until an EOM code is received after the EAN alert has finished. So this begs the question, what does the Commission see as the content of the EAN message? See my suggestions below.

§11.54(b)(3) states “After completing the above transmission procedures, key EAS and Participating National sources must transmit a common emergency message until receipt of the EAT message.” Does this just refer to carrying the audio within the EAN alert?

Then where do the EAS Operating Handbook announcements come in?

§11.54(b)(4) states “The Standby Script shall be used until emergency messages are available.” Problem: Again, stations can only read a script if an EOM has been sent following the EAN to release their EAS endecs. However, the EAS Operating Handbook does not mention sending that EOM until the EAN event is over. In addition, if the EOM following an EAN is sent to release EAS endecs, it would seem more prudent to have broadcast stations filling with any local emergency information rather than requiring that a generic National Standby Script be read over and over.

My suggested sequence for activating the National EAS:

- 1) EAN code is sent. If the President is ready, then his/her announcement is broadcast at that time. If the President is not ready, this initial EAN is an announcement advising of the President’s forthcoming address to be delivered via a second EAN.

- 2) EOM code is sent. Stations may NOT resume normal programming. The nation is now in National EAS activation status. Stations should fill with any local emergency information. If no local information is available, the Standby Script in the EAS Operating Handbook is to be used.
 - 3) A 2nd EAN code is sent when the President is ready to address the nation.
 - 4) Following the President's address, an EOM code is sent.
 - 5) Stations across the nation are still in National EAS activation status, and must fill with local emergency information or the Standby Script. During this period, the federal government may issue important, non-Presidential messages using the EAS Event Code NIC, as described in §11.16(c). Stations should note that NIC messages are the last priority, following National, then Local, then State messages, as outlined in §11.44(b). It is not clear whether NIC messages are must-carry, as §11.44(d) states "NIC messages received from national networks which are not broadcast at the time of original transmission must be recorded locally by LP sources for transmission at the earliest opportunity consistent with the message priorities in §11.44(b)." Note the use of the word "must" in this statement. Is this a third National must-carry Event Code?
 - 6) There may be additional EAN codes sent, carrying further Presidential addresses.
 - 7) When the federal government determines that the National EAS activation status has ended, the EAT code is sent, with the short termination announcement shown in the EAS Operating Handbook.
 - 8) All EAS Participants then resume normal programming.
- Note also when revising these rules, that §11.13 has a reference to the EAN and EAT codes, but those generic descriptions seem acceptable even with the above changed scenario for conducting National EAS activations.
- Also, the EAS Operating Handbook needs revision to reflect resolution of the above issues. With the EAS Operating Handbook getting even more specific than the above rules, there are yet more misconceptions regarding operation of EAS endecs. For the most part, when revising the EAS Operating Handbook keep in mind that once the EAN is sent, the EAS endec and all broadcast station programming are seized by the EAN announcement and the station cannot "broadcast this announcement" as requested in EAS Operating Handbook Steps 5 and 8 nor can it "select your monitoring source in the

following order” as requested in EAS Operating Handbook Step 6 until the federal government sends an EOM following their EAN as described in EAS Operating Handbook Step 9. Any “common program announcements” the federal government wants broadcast should come within an EAN alert.

It should be understood that the insertion of local emergency information or the National Standby Script referred to above can only be accomplished at staffed stations.

Unattended stations will return to normal programming in between EAN alerts and the EAT, as there is no one at the station to do otherwise.

Location code to be used for EAN and EAT alerts

§11.51(m) states “EAS Participants are required to transmit all received EAS messages in which the header code contains the Event codes for EAN, EAT, and RMT, and when the accompanying location codes include their State or State/county.” Including the State codes in an EAN or EAT would require at least two separate EAS alerts since 31 is the maximum amount of location codes allowed in an EAS alert. We also know that FEMA currently uses the location code for Washington, DC when issuing the EAN for testing purposes, and has proposed using the location code 000000 in future EAN alerts to represent the entire United States and Territories. While the 000000 code may seem like a good solution, equipment manufacturers should be consulted to assess the cost and practicality of adding location code 000000 to existing EAS equipment, particularly in view of the fact that some EAS equipment manufacturers are no longer in business. In any event, something needs to change in this section which now indicates that the impractical procedure of using state location codes will be used for the EAN and EAT alerts.

Adding Live Code Testing to Part 11

§11.45 deals with prohibition of false or deceptive EAS transmissions. §11.61 deals with tests of EAS procedures. In that the Commission has posted on its PSHS webpage a Public Notice on “live code testing”, this may be the time to incorporate that policy into the two aforementioned Part 11 sections.

Updating Part 11 definitions section

§11.2(a) refers to 34 PEP stations. This number should be updated, or perhaps a number should not be listed as FEMA continues to expand the number of PEP stations.

§11.2(b) states “The LP-1 is a radio station...” Don’t some states use TV stations as LP-1 stations?

New proposals for inclusion in Part 11

ECIG Implementation Guide and Conformance Testing

The CAP v1.2 IPAWS Profile v1.0 anticipated to be adopted by FEMA outlines how to insert the EAS elements into a CAP message for uniformity among all message originators. However, there is currently no standard for extracting that EAS data at the receiving end to ensure that all equipment assembles the EAS Header Code exactly the same, which is critical for detecting duplicate messages within the EAS networks. The EAS-CAP Industry Group (ECIG) is a group of EAS and CAP hardware and software manufacturers which has developed an Implementation Guide to accomplish this interoperability in the CAP-to-EAS translation among varying manufacturers. In that at this time it appears FEMA will not be addressing this issue, my very strong recommendation is that the Commission adopts this ECIG Implementation Guide as part of the Part 11 rules.

Further, since FEMA is not adopting the Implementation Guide, they are likewise not testing in their Conformance Lab for equipment adherence to this Implementation Guide. It would seem then, since non-adherence could result in lack of detection of duplicate messages in the Commission’s legacy EAS network, that the FCC should then require equipment conformance testing to the Implementation Guide criteria. Considering the questionable time period that this new conformance testing would take, the Commission should consider whether the 180-day time period triggered by the FEMA adoption of CAP is reasonable. The FCC must take its own priorities to have a properly functioning legacy EAS network into consideration when determining the mandated time period for

equipment purchase. If no adjustment is made to the time period or trigger event, then the FEMA trigger of the 180 days should be coordinated with the FCC to ensure both agencies feel devices are ready to operate in the field with assured interoperability.

Eliminating Header Code Element Requirement in Visual EAS Message

§11.51(d) for broadcast TV stations, §11.51(g)(3) and §11.51(h)(3) for cable systems, and §11.51(j)(2) for DBS all state that when transmitting an EAS alert “The visual message shall contain the Originator, Event, Location and the valid time period of the EAS message.” Some of these sections go on to say “These are elements of the EAS header code and are described in §11.31.” With the advent of CAP messaging, EAS Participants will now have the availability of more descriptive alert information than the generic information derived from the EAS header code. My recommendation is that FCC add a note in the above sections stating that for assembling the visual message the Originator, Event, Location and valid time period of the EAS alert may be derived from pertinent fields within the CAP message, as opposed to being required to be derived only from the EAS header code. Specifically, in the aforementioned ECIG Implementation Guide there are two methods for extracting these pieces of information from the more-descriptive CAP message fields. If the Implementation Guide is codified in Part 11 by the Commission, then those appropriate sections in the Implementation Guide can be referenced in the above Part 11 sections.

Expanding codified responsibilities and authority of the SECC

The State Emergency Communications Committee (SECC) is only referenced in three places in the current Part 11 rules: §11.11(e) and §11.47(b) both recommend public service providers who are not required EAS Participants contact their SECC for guidance on participating in the EAS, and §11.61(1)(i) regarding the Required Monthly Test states “The time and script content will be developed by SECCs in cooperation with affected EAS Participants.” There are no other Part 11 rules addressing the SECC’s responsibility or authority.

While there are informal processes, such as individuals from the EAS community volunteering to the FCC to serve as SECC Chairs and the FCC then in turn appointing

them to these posts, it would seem these processes could be formalized in Part 11. There are numerous references to the State EAS Plan in Part 11, but no indication of where it comes from.

However, it was noted in the 2007 Second Report and Order (FCC 07-109) paragraph 68 that “state and local entities” were referred to regarding filing revisions and annually updating EAS plans. So perhaps the EAS community is presuming a greater role for the SECC than the Commission envisions?

With the now increased responsibilities of updating the State EAS Plan to include CAP distribution, actually building those state CAP networks, possibly interfacing to any future FEMA CAP networks, and bringing the governor and designees up to speed on originating CAP messages, it would seem if these are intended duties of the SECC that the SECC should be more evident in Part 11. While the structure and composition of the SECC is probably best left to each state to determine, general guidance, and at least acknowledgement of the SECC’s existence, seem appropriate.

The following is my suggestion for a start on an SECC section:

§11.xx State Emergency Communications Committee

- Every state and territory is requested by the Commission to maintain an SECC. In the absence of individuals stepping forward from the state EAS community at large, the FCC requests that the State Broadcasters Association take the lead on organizing and maintaining an SECC.
- The SECC Chair must be appointed by the FCC. Individuals wishing to volunteer to serve as SECC Chair should communicate their desires to the Commission. FCC will in turn appoint interested and qualified individuals as SECC Chairs.
- Other members of the SECC will be appointed by the SECC Chair.
- Composition of the SECC is at the discretion of each Chair, but as a minimum the FCC suggests including representatives from the state Emergency Management Agency and/or Governor’s Office, National Weather Service, State Broadcasters Association, State Cable TV Association if it exists, state radio broadcasters, state TV broadcasters, and state cable TV operators.
- It is suggested that the SECC meet at least annually.

- The SECC is responsible for developing, amending and updating the State EAS Plan referred to in §11.21. With the advent of CAP, this will include providing for the distribution of CAP messages within the state, and in particular as originated by the governor of the state.
- The SECC shall establish policies to carry out state EAS activations in accordance with §11.55.
- The SECC shall be responsible for establishing the two required monitoring assignments for each EAS Participant, as described in §11.52(d).
- If the required EAS sources cannot be received, the SECC shall be responsible for issuing waivers for alternate monitoring assignments. [Currently, §11.52(d)(1) states that these waivers are to be acquired from the FCC. In my experience, many SECCs are already issuing waivers on their own. This came about because of the Commission's past policy of not wanting to delve into these individual state EAS details, and we were told to do what we felt best. In reality, the SECC on the ground in that state is best equipped to determine alternate monitoring assignments anyway. I would suggest that §11.52(d)(1) be amended to reflect SECCs issuing these waivers, with a copy to the FCC if desired.]
- If deemed appropriate, the FCC should include a "hold harmless" statement in this section, regarding legal protections for the best-intention actions taken by these volunteer SECC members.

Concepts which may or may not be included as Part 11 rules:

EAS Spectrum

The Emergency Alert System continues to need spectrum allocated for last-mile delivery of EAS messages. This need continues under the implementation of CAP. The Commission needs to work with the Society of Broadcast Engineers and other parties to identify EAS spectrum if the FCC expects its EAS to be viable. This is especially true if the station-relay (daisy chain) is to ever be eliminated.

Training

In paragraph 69 of the Second Report and Order (FCC 07-109), it states "...we hereby instruct the Commission's PSHS Bureau to coordinate with FEMA on the appropriate requirements for and resources to conduct EAS training programs to ensure states and other interested parties can implement the Next Generation EAS." That paragraph refers to training needed for not only EAS Participants, but Emergency Management as well, and the Commission states its agreement with that assessment. It would seem appropriate for FCC and FEMA to conduct nationwide training, along the lines of the regional workshops that were done when EAS was first implemented. Regional meetings would also aid SECCs in coordinating cross-border alerting arrangements and networks. This training could possibly be organized by FEMA Region Offices. It would seem advisable to include something in the Part 11 rules now regarding training, so this issue does not fall by the wayside.

Funding

FCC needs to work with FEMA on identifying existing FEMA Grants, or creating new ones, to cover the new Next Generation EAS activities if the FCC's CAP EAS effort is to be successful. Among the many areas needing funding are:

- Funding for the FCC/FEMA training program required by the R&O.
- Funding for SECCs to build the state CAP networks requested by FCC.
- Funding for SECCs to build out last-mile networks utilizing the EAS spectrum that will hopefully soon be acquired.

National Advisory Committee

The Commission may want to consider reactivation of the EAS National Advisory Committee for oversight and input on the following:

- Making best practice recommendations to SECCs
- Designing and monitoring a national training program in support of the R&O-required FCC/FEMA training commitment.
- Assisting FCC and FEMA in determining the Next Generation EAS funding needed, and then promoting the Grants FCC and FEMA identify.

- Making recommendations to the FCC on revising the National level EAS activation procedures (EAN and EAT).
- Making recommendations to FCC on the bandwidth and frequency range of EAS spectrum needed for last-mile delivery of EAS alerts to EAS Participants.
- With input from Emergency Management members on the NAC, make recommendations to FCC and SECCs on how to get Emergency Management engaged in EAS and CAP message origination.

Respectfully submitted,

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