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Marlene H. Dortch, Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

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

REPLY COMMENTS OF GARY E. TIMM, AN INDIVIDUAL

The following Reply 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 Reply 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 Reply 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 Reply Comments likewise do not represent the views of the filer's employer.

CAP Monitoring and State CAP Networks

I am in agreement with the Comments of TFT, Sage Alerting, and SpectraRep, all of whom pointed out that §11.20 should include a reference to state CAP networks and §11.11 and §11.52 should require the monitoring of CAP sources. I would add that this monitoring requirement should be in effect once a state has an FCC-approved State EAS Plan which includes CAP distribution, which is also the trigger for the CAP-formatted governor's message to become mandatory in that state. While §11.56 already states that "EAS Participants must be able to receive CAP-formatted EAS alerts...", that is only

interpreted by most EAS Participants as a requirement to possess a new EAS/CAP endec. It would seem that an additional requirement to actually monitor any CAP sources identified in the State EAS Plan would be prudent. Requiring this CAP monitoring by EAS Participants will help to progress EAS toward the step of moving away from station-relay (daisy chain) as the primary alert distribution means, which is a requirement of the 2007 Second Report and Order (FCC 07-109) which states in Paragraph 18, “We recognize, however, that EAS currently uses a station-relay message dissemination process that lacks the flexibility and redundancy of certain evolving digital communications systems. Consequently, we also require these current EAS Participants to upgrade their networks to the Next Generation EAS...”

#### FEMA Next Generation EAS Delivery Systems

Another innovation which would help move EAS beyond the station-relay daisy chain is the implementation of Next Generation EAS delivery systems by FEMA. The FCC appears to have the intent that EAS Participants must adopt any such systems introduced by FEMA, but the actual Part 11 rules are not clear on this. In the 2007 Second Report and Order (FCC 07-109), paragraph #1 of that document states EAS Participants must accept a message using CAP no later than 180 days after FEMA publicly publishes its adoption of such standard. The next sentence goes on to say, "Second, we require EAS Participants to adopt Next Generation EAS delivery systems no later than 180 days after FEMA publicly releases standards for those systems." Paragraphs #29-32 describe possible new networks, ending with this statement in paragraph #32, "Accordingly, should FEMA announce technical standards for any Next Generation EAS alert delivery system, EAS Participants must configure their networks to receive CAP-formatted alerts delivered pursuant to such delivery system, whether wireline, Internet, satellite or other, within 180 days after the date that FEMA announces the technical standards for such Next Generation EAS alert delivery." The actual rule in Part 11 dealing with the 180-day clock, §11.56, states “Notwithstanding anything herein to the contrary, all EAS Participants must be able to receive CAP-formatted EAS alerts no later than 180 days after FEMA publishes the technical standards and requirements for such FEMA transmissions.” It is unclear whether the terms “receive CAP-formatted EAS alerts” and

“FEMA transmissions” are meant to allude to implemented FEMA Next Generation EAS delivery systems, but if the Commission truly intends to require EAS Participants to implement any Next Generation EAS delivery systems within 180 days of FEMA adopting them it should be more clearly stated. Transferring the R&O language cited above into a new Part 11 rule would be appropriate. As it stands now, most EAS Participants interpret that section §11.56 requires only that they acquire the ability to decode a CAP message with no reference as to its possible origin. FEMA’s Next Generation delivery systems would be a major step forward, so FCC should clearly state its intention that EAS Participants must adopt these systems to keep EAS moving into the future.

#### FCC Mapbook, and Posting State and Local EAS Plans

In my experience as a State EAS Chair, I agree with the Comments of Nevada State EAS Chair Adrienne Abbott, who comments that assembly of the required FCC Mapbook is “an arduous task” and that “the list of stations... needs updating almost daily.” I would comment that rather than generating a list of each individual station in the state, a simple representation of how the EAN is distributed from the PEP/NP to the PN/NN stations in the state (usually via the SP to the SR to the LP) is adequate to demonstrate what the Commission is interested in documenting. Since each PN/NN station is usually required to monitor the LP and/or SR in its area, it stands to reason that is how each and every broadcaster will get the EAN.

I also agree with the Comments of Adrienne Abbott that Part 11 should require that the State and Local EAS Plans be posted at EAS Participant facilities, the same as the EAS Operating Handbook is required to be posted. In that the State EAS Plan will now address dissemination means of the mandatory governor message, the State EAS Plan becomes an essential document to have at hand.

#### Protection of Broadcasters

I agree with Sage Alerting in its Comments paragraph 27, where it states, “... we believe the Commission should offer some protection to broadcasters for the content of EAS

messages that are relayed... If a station is open to liability based on the content, or lack of content in some languages, or some formats, the station will tend to elect to not participate in the voluntary aspects of EAS.” This builds on my own Comments where I requested a “hold harmless” statement in Part 11 covering the volunteer SECC members.

#### Upgrades to EAS/CAP Equipment

I agree with Sage Alerting under its Comment heading “Specific Changes to Part 11” where it suggests a new rule §11.34(h)(8) be added stating, “EAS Participants must install updates to their Part 11 system to be compliant with the current version of the FEMA technical standards for CAP formatted EAS alerts within 180 days after such standards are published and accepted by FEMA .” It is very important that EAS Participants not be allowed to lag in their equipment upgrades, so any system improvements made by FEMA can be ensured to be installed by all EAS Participants within a defined window.

#### Certification of CAP in EAS Equipment

I agree with the Comments of Sage Alerting, SpectraRep and Monroe Electronics that the Part 11 rules dealing with EAS equipment requirements should include the requirement for CAP certification. Further, I find the Comments of Sage Alerting in its paragraphs 14 and 15 regarding their proposal for the Suppliers Declaration of Conformity (SDoC) to be present in the Part 11 rules to be an excellent way to accomplish CAP certification in Part 11. Also under the Sage Alerting Comments heading “Specific Changes to Part 11”, I fully support their use of the SDoC references shown in the proposed §11.34(h) rules.

#### Federal Funding

I agree with the Comments of Ann Arnold of the Texas Association of Broadcasters that federal funding is needed to encourage states to update to Next Generation EAS. I would add that a problem some states are having with the current FEMA Grants that can be applied to EAS improvements is that FEMA will award those Grants only to state and local government agencies. While that may work in some locations to get funding for EAS needs, as Ann Arnold points out some states such as hers do not have an EAS-

engaged state government. Thus such states will never pass on these FEMA Grant monies to SECCs or others to carry on EAS improvements. The FCC needs to either establish funding itself, or needs to work with FEMA to open up their Grants, to allow SECCs and other crucial non-government entities to access any monies that are intended for EAS improvement.

On the subject of funding, I also support the Comments of the National Association of Broadcasters that there should be federally-funded EAS training. I would add that if this training is not carried out directly by the federal government, then any funding distributed to states for the purpose of EAS training should be available to SECCs and other crucial non-government entities and not just to government agencies as is the case with typical FEMA Grants.

#### EAS Alert Originator Training

The Commission should take note of the collective call for EAS training for emergency managers and other EAS message originators. This request was made in numerous separate Comments by the National Association of Broadcasters, Nevada State EAS Chair Adrienne Abbott, Art Botterell, Ann Arnold of the Texas Association of Broadcasters, and in my own Comments. I heartily agree with the call for training made by these other Commenters. I would suggest that an effective means to accomplish this training of emergency managers and first responders is to incorporate the EAS training into FEMA's National Incident Management System (NIMS) coursework. With all first responders at every level of government already obliged to study and pass NIMS courses, exposure to EAS training would be guaranteed. This would be a basic starting point for all first responders, but funding for training within each state should still be established to train for the specific systems and protocols used in that state.

#### Acknowledging the SECC's Existence

As referenced in my Reply Comments above, the FCC-established State Emergency Communications Committee (SECC) in each state can play an active role in coordinating and conducting training, as well as effectuating modernization of the State EAS through

FEMA Grants or other funding. However, if the FCC is to take advantage of the collective expertise of the SECCs for these responsibilities, acknowledgement of the SECC needs to be more adequately described in the Part 11 rules. The SECCs could then operate as FCC-recognized entities to coordinate these activities in each state on behalf of the FCC. Also, see my previous Comments on new Part 11 rules regarding the SECC.

### 180-Day Clock

Many Comments called for an unspecified-length extension to the 180-day clock, including those Comments of NCTA, SpectraRep, Monroe Electronics, TFT, and Ann Arnold of Texas Association of Broadcasters. The National Association of Broadcasters and Trilithic both suggested a 12-month clock. In my view, in addition to the valid reasons brought up by these Commenters to extend the clock, there is another issue which is the event that actually triggers the clock. Back in 2007, neither FCC nor FEMA nor most EAS Participants had any idea how involved the launch of Next Generation EAS would be. Thus it is understandable that in 2007 the Commission tied the trigger of the 180-day clock to FEMA's adoption of CAP. We all realize now that FEMA's adoption of CAP is not the final step, but is more of a precursor to the home stretch. I would suggest that as Job #1, FCC revise the trigger for the clock roll in §11.56 to be a specific decision to proceed, in and unto itself, not tied to any particular event such as FEMA CAP adoption. FEMA should be free to say it is adopting CAP so manufacturers can make equipment with confidence and Conformance Testing can be started by FEMA's testing contractor, all of which needs to be done before the clock is rolled. When both FCC and FEMA feel conditions are right, the clock should then be rolled as a deliberate and intended action.

While the FCC is revising §11.56, it should consider changing the clock-roll decision to either a joint one by FCC and FEMA together or a decision by FCC alone. Although Executive Order 13407 charges FEMA with creating the Next Generation EAS, that fact does not absolve the FCC from the responsibility of determining when such system is ready for the FCC's licensees' use. Indeed, the FCC still has rules to write before Next Generation EAS even has a full regulatory platform from which to work, and that is

outside of FEMA's decision-making purview. The FCC should and must be a visible part of the decision to start the EAS-CAP countdown clock. While I realize that FCC and FEMA are already working closely on the clock roll issue, it would be reassuring to see this shared decision-making process written into a revised rule to demonstrate the Commission's current engagement in this process.

#### Updating National EAS Activation Procedure

It is apparent from not only my own previous Comments, but those of Trilithic, SpectraRep, Monroe Electronics, and TFT, that there is significant question as to how the National EAS Activation will actually be conducted. Neither the Part 11 rules nor the EAS Operating Handbook appear to provide clear guidance. Although my previous Comments attempted to lay out a new procedure to clarify what I surmised the EAS Operating Handbook was trying to accomplish, I have since come to realize that in reality the procedure referenced in the EAS Operating Handbook is flawed and needs to be updated. I will detail below the steps I feel need to be taken to update the National EAS Activation procedure to take into consideration the limits of the present-day cable operator and broadcaster environment.

#### Federal Government Originates All Programming

Currently, the EAS Operating Handbook requires that EAS Participants read scripts as part of the National EAS Activation and considers those scripts a part of "a common emergency message". The current reality is that all cable operations, and most broadcast stations, are unattended most if not all of the day. Thus it is not possible for the majority of EAS Participants to read the scripts in the EAS Operating Handbook. As pointed out in the Comments of TFT, the FCC needs to revise its National EAS Activation procedure to account for the fact that all cable systems and vast numbers of broadcasters operate in automatic unattended mode. Thus my first suggestion is that any and all intended "common emergency messages" should be originated solely by the federal government and inserted within the EAN alert prior to its EOM. That would ensure that all the intended messages will be heard via all EAS Participants, which appears to be the intention of the current EAS Operating Handbook language.

Eliminate the EAT Event Code

If the FCC acknowledges the present-day unattended status of most EAS Participants, then it must be acknowledged that the period of assumed local fill scripts between the current EAN alert and EAT alert should be eliminated from the National EAS Activation procedure. Under my proposal, all programming must come directly from the federal government; therefore this interim local-insertion period no longer exists. The federal government will send the EAN code, deliver all needed information, and the National EAS Activation will thus end with the EOM code which follows the EAN code.

Therefore the EAT code no longer has a place in this scenario and should be eliminated. The National EAS Activation procedure will be simplified to operate like any other EAS alert; the Event Code is sent (EAN in this case), the message is delivered, and then the EOM is sent. Comments by Monroe Electronics in particular pointed out the conflict between whether the Header Code TTTT time duration or receipt of the EAT Event Code ends a National EAS Activation. Eliminating the EAT, and bringing the National EAS Activation into alignment with the way all other EAS alerts are handled (simply an Event Code followed by an EOM code), seems prudent and will clear up confusion. The EAN message can still be of any length deemed necessary by federal authorities and accomplishes the mission intended in the EAS Operating Handbook of giving the federal government exclusive control of all EAS Participants during the national emergency, but the procedure is cleaned up by elimination of the unnecessary EAT code and acknowledges the limitations of today's unattended cable and broadcast operations. If the Commission chooses to retain the EAT, then a detailed explanation must be given as to how a National EAS Activation will work, understanding that most EAS Participants are unattended and will only be carrying what is sent during the EAN-coded EAS alert. It is difficult to envision how the EAT code fits into this scenario any longer. The EAT was implemented with the vision that most broadcast stations are manned, which is no longer the case. It is also noteworthy that the federal government did not even send an EAT Event Code as part of the recent Alaska Test. Thus the EAT does not appear to be a truly essential part of the National EAS Activation procedure even to federal officials, which was proven correct in that the test was conducted successfully without it.

Eliminate the EAS Operating Handbook

If the above principals are adopted, then the National EAS Activation is greatly simplified and the National EAS is treated like any other EAS alert (Event Code followed by an EOM). This means there is no longer a National EAS Activation “procedure” that needs to be outlined and followed. The Part 11 rules already require EAS endecs to be programmed for the EAN and that the EAN must be carried. There would no longer be any procedure beyond meeting the requirements of those rules regarding the National EAS Activation. Thus there would be nothing left to describe in the EAS Operating Handbook regarding the National EAS Activation. The other section of the EAS Operating Handbook deals with generic state and local EAS activation procedures, but I maintain it is better for the Commission to require posting the actual State and Local EAS Plans in effect for the EAS Participant’s area as I remarked earlier in these Reply Comments. So without a National EAS “procedure” to outline, and actual State and Local EAS Plans required to be posted, it would appear that the EAS Operating Handbook can be eliminated. This would negate §11.15 as well, although that section could be amended to require the posting of the relevant State and Local EAS Plans as opposed to the retired EAS Operating Handbook.

Effects of Eliminating the EAT Event Code

There are two instances in Part 11 where receipt of the EAT Event Code is used for a particular function. The first is by Non-participating National (NN) stations to determine when they can return to the air after signing off during a National EAS Activation. In my previous Comments, I already suggested that the NN status should be dropped due to complications brought on by the introduction of a second category of must-carry alerts at the governor level and whether or not exclusions would be offered for those alerts as they are for the President’s alerts. See my previous Comments. Now with my proposal to eliminate the extended local-insertion period from the National EAS Activation procedure, it would seem easier than ever for all EAS Participants to carry the EAN just as all other EAS alerts are carried thus eliminating the need for the NN Authorization. The simplification of the EAN activation process is a proper justification on the FCC’s

part for withdrawing all NN Authorization Letters, which is an action permissible under §11.19. I, therefore, continue to maintain that the Commission should eliminate the NN status as already detailed in my previous Comments.

The second use of the EAT is in §11.42 for Communications Common Carriers to know when to disconnect any temporary connections they have made in their Test Centers to get the national message to individual EAS Participants. In the past, broadcast stations were wired to “Telco Test Boards” where many audio feeds were available for interconnections. Today, broadcast stations no longer have audio connections to the telephone exchanges, with most audio now being received via satellite direct at each broadcast station. As a broadcast engineer, I can’t see this provision ever being used in the modern-day broadcast architecture. Thus this entire paragraph has become irrelevant and should be dropped.

If the FCC eliminates the EAT, paragraphs in §11.54 would need to be rephrased to say EAS Participants must simply “carry the EAN” rather than “await receipt of the EAT”. The reference to EAT would also need to be removed from: §11.2, §11.13, §11.14, §11.15, §11.16, §11.31(e), §11.51(m), and §11.52(e).

Respectfully submitted,  
Gary E. Timm