

EAS decoder ¹	Y	Y
EAS encoder	Y	Y
Audio message on all channels ²	Y	Y
Video message on all channels ²	N/A	Y

¹ EAS Participants may comply with the obligations set forth in section 11.56 of this Part to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.

² All SDARS and DBS providers may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages or by any other method that ensures that viewers of all channels receive the EAS message.

* * * * *

(d) Local franchise authorities may use any EAS codes authorized by the FCC in any agreements.

* * * * *

4. Delete Section 11.12 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.12 Two-tone Attention Signal encoder and decoder.

[deleted]

5. Delete Section 11.13 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.13 Emergency Action Notification (EAN) and Emergency Action Termination (EAT).

[deleted]

6. Delete Section 11.14 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.14 Primary Entry Point (PEP) System.

[deleted]

7. Delete Section 11.15 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.15 EAS Operating Handbook.

[deleted]

8. Delete Section 11.16 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.16 National Control Point Procedures.

[deleted]

9. Amend Section 11.21 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraphs (a) and (b) as follows:

§ 11.21 State and Local Area Plans and FCC Mapbook.

* * * * *

(a) The State Area EAS Plan contains procedures for State emergency management and other State officials, the NWS, and EAS Participants' personnel to transmit emergency information to the public during a State emergency using the EAS. State Area EAS Plans should include a data table, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for the emergency action notification ("EAN") from the PEP to each station in the plan. The State Area EAS Plan also must include specific and detailed information describing how statewide and geographically-targeted EAS messages formatted in the Common Alerting Protocol (CAP) that are aggregated and delivered by the Governor (or his/her designee, or by FEMA on behalf of such Governor), as specified in §11.55(a), will be transmitted to all EAS Participants who provide services in the state, and must identify the Really Simple Syndication, version 2.0, feed(s) that will be utilized to distribute such CAP-formatted EAS messages for purposes of the monitoring obligations set forth in §11.52(d)(ii). EAS Participants must maintain within the facility wherein EAS equipment is located, and if remotely operated, the facility from which such equipment is remotely operated, a copy of the most recent FCC-approved State Area EAS Plan for the state in which such facility is located, such that it is immediately available to staff responsible for initiating actions.

(b) The Local Area EAS Plan contains procedures for local officials or the NWS to transmit emergency information to the public during a local emergency using the EAS. Local Area EAS Plans may be a part of the State Area EAS Plan. A Local Area is a geographical area of contiguous communities or counties that may include more than one state. EAS Participants must maintain within the facility wherein EAS equipment is located, and if remotely operated, the facility from which such equipment is remotely operated, a copy of the most recent FCC-approved Local Area EAS Plan for Local Areas in which such facility is located, unless such Local Area EAS Plan is part of a State Area EAS Plan already being maintained at such facility, such that it is immediately available to staff responsible for initiating actions.

* * * * *

10. Amend Section 11.31 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraphs (c), (e) and (f) as follows:

§ 11.31 EAS protocol.

* * * * *

(c) The EAS protocol, including any codes, must not be amended, extended or abridged without FCC authorization. The EAS protocol and message format are specified in the following representation.

Examples are provided in FCC Public Notices.

[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJHHMM-LLLLLLLLL-(one second pause)

[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJHHMM-LLLLLLLLL-(one second pause)

[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJHHMM-LLLLLLLLL-(at least a one second pause)

(transmission of 8 to 25 seconds of Attention Signal)

(transmission of audio, video or text messages)

(at least a one second pause)

[PREAMBLE]NNNN (one second pause)

[PREAMBLE]NNNN (one second pause)

[PREAMBLE]NNNN (at least one second pause)

[PREAMBLE] This is a consecutive string of bits (sixteen bytes of AB hexadecimal [8 bit byte 10101011]) sent to clear the system, set AGC and set asynchronous decoder clocking cycles. The preamble must be transmitted before each header and End of Message code.

ZCZC--This is the identifier, sent as ASCII characters ZCZC to indicate the start of ASCII code.

ORG--This is the Originator code and indicates who originally initiated the activation of the EAS. These codes are specified in paragraph (d) of this section.

EEE--This is the Event code and indicates the nature of the EAS activation. The codes are specified in paragraph (e) of this section. The Event codes must be compatible with the codes used by the NWS Weather Radio Specific Area Message Encoder (WRSAME).

PSSCCC--This is the Location code and indicates the geographic area affected by the EAS alert. There may be 31 Location codes in an EAS alert. The Location code uses the codes described in the American National Standards Institute (ANSI) standard, ANSI INCITS 31-2009 ("Information technology - Codes for the Identification of Counties and Equivalent Areas of the United States, Puerto Rico, and the Insular Areas"). Each state is assigned an SS number as specified in paragraph (f) of this section. Each county and some cities are assigned a CCC number. A CCC number of 000 refers to an entire State or Territory. P defines county subdivisions as follows: 0 = all or an unspecified portion of a county, 1 = Northwest, 2 = North, 3 = Northeast, 4 = West, 5 = Central, 6 = East, 7 = Southwest, 8 = South, 9 = Southeast. Other numbers may be designated later for special applications. The use of county subdivisions will probably be rare and generally for oddly shaped or unusually large counties. Any subdivisions must be defined and agreed to by the local officials prior to use.

+TTTT--This indicates the valid time period of a message in 15 minute segments up to one hour and then in 30 minute segments beyond one hour; i.e., +0015, +0030, +0045, +0100, +0430 and +0600.

JJHHMM--This is the day in Julian Calendar days (JJJ) of the year and the time in hours and minutes (HHMM) when the message was initially released by the originator using 24 hour Universal Coordinated Time (UTC).

LLLLLLLL--This is the identification of the EAS Participant, NWS office, etc., transmitting or retransmitting the message. These codes will be automatically affixed to all outgoing messages by the EAS encoder.

NNNN--This is the End of Message (EOM) code sent as a string of four ASCII N characters.

* * * * *

(e) The following Event (EEE) codes are presently authorized:

Nature of Activation	Event Codes
National Codes (Required):	
Emergency Action Notification (National only)	EAN
National Information Center	NIC
National Periodic Test	NPT
Required Monthly Test	RMT
Required Weekly Test	RWT
State and Local Codes (Optional):	
Administrative Message	ADR
Avalanche Warning	AVW ¹
Avalanche Watch	AVA ¹
Blizzard Warning	BZW
Child Abduction Emergency	CAE ¹
Civil Danger Warning	CDW ¹
Civil Emergency Message	CEM
Coastal Flood Warning	CFW ¹
Coastal Flood Watch	CFA ¹
Dust Storm Warning	DSW ¹
Earthquake Warning	EQW ¹
Evacuation Immediate	EVI
Fire Warning	FRW ¹
Flash Flood Warning	FFW
Flash Flood Watch	FFA
Flash Flood Statement	FFS
Flood Warning	FLW
Flood Watch	FLA
Flood Statement	FLS
Hazardous Materials Warning	HMW ¹
High Wind Warning	HWW
High Wind Watch	HWA
Hurricane Warning	HUW
Hurricane Watch	HUA
Hurricane Statement	HLS
Law Enforcement Warning	LEW ¹
Local Area Emergency	LAE ¹
Network Message Notification	NMN ¹
911 Telephone Outage Emergency	TOE ¹
Nuclear Power Plant Warning	NUW ¹
Practice/Demo Warning	DMO
Radiological Hazard Warning	RHW ¹
Severe Thunderstorm Warning	SVR
Severe Thunderstorm Watch	SVA
Severe Weather Statement	SVS
Shelter in Place Warning	SPW ¹

Special Marine Warning	SMW ¹
Special Weather Statement	SPS
Tornado Warning	TOR
Tornado Watch	TOA
Tropical Storm Warning	TRW ¹
Tropical Storm Watch	TRA ¹
Tsunami Warning	TSW
Tsunami Watch	TSA
Volcano Warning	VOW ¹
Winter Storm Warning	WSW
Winter Storm Watch	WSA

¹ Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these event codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these event codes. EAS Participants that install or replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting these event codes.

(f) The State, Territory and Offshore (Marine Area) ANSI number codes (SS) are as follows. County ANSI numbers (CCC) are contained in the State EAS Mapbook.

	ANSI#
State:	
AL	01
AK	02
AZ	04
AR	05
CA	06
CO	08
CT	09
DE	10
DC	11
FL	12
GA	13
HI	15
ID	16
IL	17
IN	18
IA	19
KS	20
KY	21
LA	22
ME	23
MD	24
MA	25
MI	26
MN	27
MS	28
MO	29
MT	30
NE	31
NV	32
NH	33
NJ	34
NM	35
NY	36

NC	37
ND	38
OH	39
OK	40
OR	41
PA	42
RI	44
SC	45
SD	46
TN	47
TX	48
UT	49
VT	50
VA	51
WA	53
WV	54
WI	55
WY	56
Terr.:	
AS	60
FM	64
GU	66
MH	68
MH	68
PR	72
PW	70
UM	74
	78
Offshore (Marine Areas) ¹ :	
Eastern North Pacific Ocean, and along U.S. West Coast from Canadian border to Mexican border	57
North Pacific Ocean near Alaska, and along Alaska coastline, including the Bering Sea and the Gulf of Alaska	58
Central Pacific Ocean, including Hawaiian waters	59
South Central Pacific Ocean, including American Samoa waters	61
Western Pacific Ocean, including Mariana Island waters	65
Western North Atlantic Ocean, and along U.S. East Coast, from Canadian border south to Currituck Beach Light, N.C	73
Western North Atlantic Ocean, and along U.S. East Coast, south of Currituck Beach Light, N.C., following the coastline into Gulf of Mexico to Bonita Beach, FL., including the Caribbean	75
Gulf of Mexico, and along the U.S. Gulf Coast from the Mexican border to Bonita Beach, FL	77
Lake Superior	91

Lake Michigan	92
Lake Huron	93
Lake St. Clair	94
Lake Erie	96
Lake Ontario	97
St. Lawrence River above St. Regis	98

¹ Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these marine area location codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003, must be capable of receiving and transmitting these marine area location codes. EAS Participants that install or replace their EAS equipment after February 1, 2004, must install equipment that is capable of receiving and transmitting these location codes.

11. Amend Section 11.32 of Part 11 of Title 47 of the Code of Federal Regulations by deleting paragraph (a)(9) as follows:

§ 11.32 EAS Encoder.

(a) EAS Encoders must at a minimum be capable of encoding the EAS protocol described in §11.31 and providing the EAS code transmission requirements described in §11.51. EAS encoders must additionally provide the following minimum specifications:

(1) * * * * *

(2) * * * * *

(3) * * * * *

(4) * * * * *

(5) * * * * *

(6) * * * * *

(7) * * * * *

(8) * * * * *

(9) [deleted]

* * * * *

12. Amend Section 11.33 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraph (a), deleting paragraph (b), and re-designating paragraph (c), as follows:

§ 11.33 EAS Decoder.

(a) An EAS Decoder must at a minimum be capable of (i) providing the EAS monitoring functions described in §11.52, (ii) decoding EAS messages formatted in accordance with the EAS Protocol described §11.31, and (iii) converting Common Alerting Protocol (CAP)-formatted EAS messages into EAS alert messages that comply with the EAS Protocol, in accordance with §11.56(a)(ii), with the

exception that the CAP-related monitoring and conversion requirements set forth in §§11.52(d)(ii) and 11.56(a)(ii) can be satisfied via an Intermediary Device. An EAS Decoder also must be capable of the following minimum specifications:

* * * * *

(b) Decoders shall be capable of operation within the tolerances specified in this section as well as those in §11.32(b), (c) and (d).

13. Amend Section 11.41 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraph (c) as follows:

§ 11.41 Participation in EAS.

* * * * *

(c) All EAS Participants, including NN sources, must maintain within their facilities a copy of the current, FCC-filed and approved versions of the State and Local Area EAS Plans (unless the Local Area EAS Plan is part of the State Area EAS Plan), as set forth in §11.21(a) and (b).

14. Delete Section 11.42 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.42 Participation by communications common carriers.

[deleted]

15. Delete Section 11.44 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.44 EAS message priorities.

[deleted]

16. Amend Section 11.51 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraphs (a), (c), (d), (i), (j) and (m) as follows:

§ 11.51 EAS code and Attention Signal Transmission requirements.

(a) Analog and digital broadcast stations must transmit, either automatically or manually, national level EAS messages and required tests by sending the EAS header codes, Attention Signal, emergency message and End of Message (EOM) codes using the EAS Protocol. The Attention Signal must precede any emergency audio message.

* * * * *

(c) All analog and digital radio and television stations shall transmit EAS messages in the main audio channel. All DAB stations shall also transmit EAS messages on all audio streams. All DTV broadcast stations shall also transmit EAS messages on all program streams.

(d) Analog and digital television broadcast stations shall transmit a visual message containing the Originator, Event, Location and the valid time period of an EAS message. If the message is a video crawl,

it shall be displayed at the top of the television screen or where it will not interfere with other visual messages.

* * * * *

(i) SDARS licensees shall transmit national audio EAS messages on all channels in the same order specified in paragraph (a) of this section.

(1) SDARS licensees must install, operate, and maintain equipment capable of generating the EAS codes.

(2) SDARS licensees may determine the distribution methods they will use to comply with this requirement.

(j) DBS providers shall transmit national audio and visual EAS messages on all channels in the same order specified in paragraph (a) of this section.

(1) DBS providers must install, operate, and maintain equipment capable of generating the EAS codes.

(2) The visual message shall contain the Originator, Event, Location and the valid time period of the EAS message. These are elements of the EAS header code and are described in §11.31. If the visual message is a video crawl, it shall be displayed at the top of the subscriber's television screen or where it will not interfere with other visual messages.

(3) DBS providers may determine the distribution methods they will use to comply with this requirement. Such methods may include distributing the EAS message on all channels, using a means to automatically tune the subscriber's set-top box to a pre-designated channel which carries the required audio and video EAS messages, and/or passing through the EAS message provided by programmers and/or local channels (where applicable).

* * * * *

(m) EAS Participants are required to transmit all received EAS messages in which the header code contains the Event codes for Emergency Action Notification (EAN) and Required Monthly Test (RMT), and when the accompanying location codes include their State or State/county. These EAS messages shall be retransmitted unchanged except for the LLLLLLLL-code which identifies the EAS Participant retransmitting the message. See §11.31(c). If an EAS source originates an EAS message with the Event codes in this paragraph, it must include the location codes for the State and counties in its service area. When transmitting the required weekly test, EAS Participants shall use the event code RWT. The location codes are the state and county for the broadcast station city of license or system community or city. Other location codes may be included upon approval of station or system management. EAS messages may be transmitted automatically or manually.

* * * * *

17. Amend Section 11.52 of Part 11 of Title 47 of the Code of Federal Regulations by deleting the Note to paragraph (a) and revising paragraphs (a), (d) and (e) as follows:

§ 11.52 EAS code and Attention Signal Monitoring requirements.

(a) EAS Participants must be capable of receiving the Attention Signal required by §11.32(a)(9) and emergency messages of other broadcast stations during their hours of operation. EAS Participants must install and operate during their hours of operation, equipment that is capable of receiving and decoding, either automatically or manually, the EAS header codes, emergency messages and EOM code, and which complies with the requirements in §11.56.

[NOTE TO PARAGRAPH (A) is deleted]

* * * * *

(d) EAS Participants must comply with the following monitoring requirements:

(i) With respect to monitoring for EAS messages that are formatted in accordance with the EAS Protocol, EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State Area EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.

(ii) With respect to monitoring EAS messages formatted in accordance with the specifications set forth in §11.56(a)(ii), EAS Participants must monitor the Really Simple Syndication, version 2.0, feed(s):

(a) utilized by the Federal Emergency Management Agency's (FEMA) Integrated Public Alert and Warning System for distribution of federal Common Alert Protocol (CAP)-formatted alert messages to the EAS; and

(b) identified in a State Area EAS Plan as the source for distributing governor-originated CAP-formatted alert messages to the EAS, provided that such State Area EAS Plan complies fully with §11.21(a) and has been reviewed and approved by the Chief, Public Safety and Homeland Security Bureau, prior to implementation, as required by §11.21.

(iii) If the required EAS message sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the Chief, Public Safety and Homeland Security Bureau. In an emergency, a waiver may be issued over the telephone with a follow up letter to confirm temporary or permanent reassignment.

(iv) The management of EAS Participants shall determine which header codes will automatically interrupt their programming for State and Local Area emergency situations affecting their audiences.

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for Emergency Action Notification (EAN) or the Required Monthly Test (RMT) for their State or State/county location.

(1) * * * * *

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 60 minutes. All actions must be logged and recorded as specified in §§11.35(a) and 11.54(a)(3). Decoders

required monthly and weekly tests), with the appropriate accompanying State and State/county location codes.

18. Amend Section 11.54 of Part 11 of Title 47 of the Code of Federal Regulations by deleting paragraphs (a), (b)(1)-(8), (b)(10), (b)(12) and (c), and revising and re-designating paragraphs (b), (b)(9), (b)(11), (b)(13), (d) and (e), as follows:

§ 11.54 EAS operation during a National Level emergency.

(a) Immediately upon receipt of an EAN message, EAS Participants must comply with the following requirements, as applicable:

(1) Analog and digital broadcast stations may transmit their call letters and analog cable systems, digital cable systems and wireless cable systems may transmit the names of the communities they serve during an EAS activation. State and Local Area identifications must be given as provided in State and Local Area EAS Plans.

(2) Analog and digital broadcast stations, except those holding an EAS Non-participating National Authorization letter, are exempt from complying with §§73.62 and 73.1560 of this chapter (operating power maintenance) while operating under this part.

(3) The time of receipt of the EAN shall be entered by analog and digital broadcast stations in their logs (as specified in §§73.1820 and 73.1840 of this chapter), by analog and digital cable systems in their records (as specified in §76.1711 of this chapter), by subject wireless cable systems in their records (as specified in §21.304 of this chapter), and by all other EAS Participants in their records as specified in §11.35(a).

(b) EAS Participants originating emergency communications under this section shall be considered to have conferred rebroadcast authority, as required by section 325(a) of the Communications Act of 1934, 47 U.S.C. 325(a), to other EAS Participants.

(c) During a national level EAS emergency, EAS Participants may transmit in lieu of the EAS audio feed an audio feed of the President's voice message from an alternative source, such as a broadcast network audio feed.

19. Amend Section 11.55 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraphs (a) and (c) as follows:

§ 11.55 EAS operation during a State or Local Area emergency.

(a) Effective [December 30, 2011], all EAS Participants (excepting SDARs and DBS providers) must deploy equipment that is capable of:

(i) Acquiring, in accordance with the State EAS alert message monitoring requirements in §11.52(d)(ii), statewide and geographically-targeted (as defined by the Location code provisions in §11.31) EAS alert messages that are formatted pursuant to the Organization for the Advancement of Structured Information Standards (OASIS) specifications (1) OASIS Common Alerting Protocol Version 1.2 (July 1, 2010), and (2) Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), as aggregated and delivered by the Governor, or his/her designee, or by FEMA on behalf of such Governor, of a state in which the EAS Participant is located;

(ii) Converting such EAS alert messages into EAS alert messages that comply with the EAS Protocol, such that the Preamble and EAS Header Codes, audio Attention Signal, audio message, and Preamble and EAS End of Message (EOM) Codes of such messages are rendered equivalent to the EAS Protocol (set forth in §11.31), in accordance with the technical specifications governing such conversion process set forth in the ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010), developed and published by the EAS-CAP Industry Group; and

(iii) Processing such converted messages in accordance with the other sections of this Part.

This obligation does not apply unless and until a State Area EAS Plan detailing the delivery of such State Governor-initiated CAP-formatted messages has been submitted to and approved by the Chief, Public Safety and Homeland Security Bureau, in accordance with §11.21. EAS Participants may but are not required to process CAP-formatted EAS messages aggregated and delivered by the State Governor (or his/her designee, or FEMA) that do not conform to the specifications identified herein for CAP messages and their translation into the EAS Protocol. Examples of natural emergencies which may warrant state EAS activation are: Tornadoes, floods, hurricanes, earthquakes, heavy snows, icing conditions, widespread fires, etc. Man-made emergencies warranting state EAS activation may include: toxic gas leaks or liquid spills, widespread power failures, industrial explosions, and civil disorders.

(1) * * * * *

(2) * * * * *

* * * * *

(c) Immediately upon receipt of a State or Local Area EAS message that has been formatted in the EAS Protocol, EAS Participants participating in the State or Local Area EAS must do the following:

(1) * * * * *

(2) * * * * *

(3) * * * * *

(4) EAS Participants participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in the State and Local Area Plans. Analog and digital television broadcast stations must transmit all EAS announcements visually and aurally as specified in §11.51(a) through (e) and 73.1250(h) of this chapter, as applicable; analog cable systems, digital cable systems, and wireless cable systems must transmit all EAS announcements visually and aurally as specified in §11.51(g) and (h); and DBS providers must transmit all EAS announcements visually and aurally as specified in §11.51(j). EAS Participants providing foreign language programming should transmit all EAS announcements in the same language as the primary language of the EAS Participant.

* * * * *

20. Re-title and revise Section 11.56 of Part 11 of Title 47 of the Code of Federal Regulations as follows:

§ 11.56 Obligation to Process CAP-Formatted EAS Messages.

(a) On or by [September 30, 2011], EAS Participants must have deployed operational equipment that is capable of the following:

- (i) Acquiring EAS alert messages in accordance with the monitoring requirements in §11.52(d)(ii);
- (ii) Converting EAS alert messages that have been formatted pursuant to the Organization for the Advancement of Structured Information Standards (OASIS) specifications (1) OASIS Common Alerting Protocol Version 1.2 (July 1, 2010), and (2) Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), into EAS alert messages that comply with the EAS Protocol, such that the Preamble and EAS Header Codes, audio Attention Signal, audio message, and Preamble and EAS End of Message (EOM) Codes of such messages are rendered equivalent to the EAS Protocol (set forth in §11.31), in accordance with the technical specifications governing such conversion process set forth in the ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010), developed and published by the EAS-CAP Industry Group; and
- (iii) Processing such converted messages in accordance with the other sections of this Part.

(b) EAS Participants may comply with the requirements of this section by deploying an Intermediary Device that acquires the CAP-formatted message, converts it into an EAS Protocol-compliant message, and inputs such EAS Protocol-compliant message into a separate EAS decoder, EAS encoder, or unit combining such decoder and encoder functions, for further processing in accordance with the other sections of this Part.

21. Amend Section 11.61 of Part 11 of Title 47 of the Code of Federal Regulations by revising paragraphs (a), (a)(1)(i), (a)(2)(ii) and (b) as follows:

§ 11.61 Tests of EAS procedures.

(a) EAS Participants shall conduct tests at regular intervals, as specified in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of required tests as specified in paragraph (a)(4) of this section.

(1) Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code.

(i) Tests in odd numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and script content will be developed by State Emergency Communications Committees in cooperation with affected EAS Participants. Script content may be in the primary language of the EAS Participant. These monthly tests must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State. Analog and digital class D non-commercial educational FM, analog and digital LPFM stations, and analog and digital LPTV stations are required to transmit only the test script.

(ii) * * * * *

(2) Required Weekly Tests:

(i) * * * * *

(ii) DBS providers, analog and digital class D non-commercial educational FM stations, analog and digital LPFM stations, and analog and digital LPTV stations are not required to transmit this test but must log receipt, as specified in §11.35(a) and 11.54(a)(3).

(iii) * * * * *

(iv) * * * * *

* * * * *

(b) Entries shall be made in EAS Participant records, as specified in §11.35(a) and 11.54(a)(3).

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in this Third Further Notice of Proposed Rulemaking (*Third Further Notice*). We request written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Third Further Notice* provided in section IV of the item. The Commission will send a copy of the *Third Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Third Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. In 2007, as an initial step towards upgrading the Emergency Alert System (EAS) to incorporate the latest technologies and capabilities and to facilitate integration of public alerting at the national, state, and local levels, the Commission adopted the *Second Report and Order* in this docket, which incorporated certain Common Alerting Protocol (CAP)-related obligations into the Commission's Part 11 EAS rules.⁴ First, to ensure the efficient, rapid, and secure transmission of EAS alerts in a variety of formats (including text, audio, and video) and via different means (broadcast, cable, satellite, and other networks), the Commission required that EAS Participants be capable of receiving CAP-formatted alert messages no later than 180 days after the Federal Emergency Management Agency (FEMA) publicly publishes its adoption of the CAP standard.⁵ Second, the Commission required EAS Participants to adopt Next Generation EAS delivery systems no later than 180 days after FEMA publicly releases standards for those systems.⁶ Third, the Commission required EAS Participants to transmit state and local EAS alerts that are originated by governors or their designees no later than 180 days after FEMA publishes its adoption of the CAP standard, provided that the state has a Commission-approved State Area EAS Plan that provides for delivery of such alerts.⁷

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. § 603(a).

³ *Id.*

⁴ See Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, *Second Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 13275 (2007) (alternatively, "*Second Report and Order*").

⁵ See *Second Report and Order*, 22 FCC Rcd 13275, 13288, para. 26; *codified at* 47 C.F.R. § 11.56. On November 18, 2010, the Commission adopted the *Waiver Order*, which extended the 180-day deadline for EAS Participants to meet the CAP-related obligations adopted in the *Second Report and Order* until September 30, 2011. See Review of the Emergency Alert System, Order, EB Docket No. 04-296, FCC 10-191 (rel. Nov. 23, 2010) at para. 1 (*Waiver Order*).

⁶ See *id.* at 22 FCC Rcd 13291, para. 32.

⁷ See *id.* at 13300, para. 55; *codified at* 47 C.F.R. § 11.55.

3. This *Third Further Notice* builds on that effort by seeking comment on a wide range of tentative conclusions and proposed revisions to the Part 11 rules that would codify the CAP-related mandates adopted in the *Second Report and Order*, and modernize and streamline the Part 11 rules by eliminating outdated technical and procedural requirements. Specifically, this *Third Further Notice* contains the following tentative conclusions and proposed rule changes, and seeks comment on each:

- Tentatively concludes that, for the time being, the existing legacy EAS, including utilization of the EAS Protocol, will be maintained.
- Proposes to amend section 11.56 to require EAS Participants to convert CAP-formatted EAS messages into SAME-compliant EAS messages in accordance with the EAS-CAP Industry Group's (ECIG) ECIG Implementation Guide.⁸
- Tentatively concludes that section 11.52 should be amended to require that EAS Participants monitor the Really Simple Syndication 2.0 feed(s) utilized by: (i) FEMA's Integrated Public Alert and Warning System for federal CAP-formatted messages; and (ii) state alert systems as the source of governor-originated CAP messages (provided these are described in the State Area EAS Plan submitted to and approved by the Commission).
- Proposes that the language from the *Second Report and Order* regarding receipt of CAP-formatted messages from Next Generation EAS delivery systems⁹ was intended to put EAS Participants on notice that, should FEMA adopt technical standards covering delivery of CAP-formatted messages to EAS Participants over specific platforms, such as satellite systems, EAS Participants would ultimately need to configure their systems to be able to interface with such systems to meet their existing obligation to process CAP-formatted messages.
- Seeks comment on whether EAS Participants should be permitted to meet their CAP-related obligations by deploying intermediary devices that essentially would carry out the function of receiving and decoding a CAP-formatted message, and translating and encoding such message into a SAME-formatted message that could then be inputted into a legacy EAS device via its audio port (just as an over-the-air SAME-formatted message would be) for broadcast over the EAS Participant's transmission platform.
- Seeks comment on whether adding a requirement to section 11.32(a) that EAS encoders must be capable of encoding a CAP-formatted message (*i.e.*, originating or somehow transmitting a message in the CAP format as opposed to the SAME format) would be necessary or appropriate.
- Seeks comment on whether the input and output configuration requirements in sections 11.32(a)(2) and (a)(3) should be modified to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS-232C interface.

⁸ See ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010), EB Docket 04-296 (filed May 17, 2010) (the "ECIG Implementation Guide") (this document is also available on ECIG's web site at: <http://eas-cap.org/documents.htm>).

⁹ See *Second Report and Order*, 22 FCC Rcd 13275, 13291, para. 32 ("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.").

- Seeks comment on whether the minimum requirements for decoders in section 11.33(a) should include the capability to decode CAP-formatted messages and convert them into SAME protocol-compliant messages, and whether this requirement can be met through the deployment of an intermediary device.
- Seeks comment on whether the input and output configuration requirements in sections 11.33(a)(1) and (a)(7) should be modified to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS-232C interface.
- Seeks comment on whether section 11.33(a)(4) should be modified to require that if an alert message is derived from a CAP-formatted message, the contents of the text, assembled pursuant to ECIG Implementation Guide, should be added to the EAS device log.
- Tentatively concludes that there is no basis for revising section 11.33(a)(10) to require processing of CAP-formatted message by default when duplicate messages are received in both the EAS Protocol and CAP formats, as recommended by the Communications Security, Reliability, and Interoperability Council (CSRIC), if EAS Participants are required to translate CAP-formatted messages into SAME-formatted messages in conformance with the ECIG Implementation Guide.
- Seeks comment on whether section 11.33(a)(11) should be updated to specify that a CAP-formatted message containing a header code with the EAN event code received through a non-audio input must override all other messages.
- Seeks comment on whether the text of section 11.11(a) should be amended to include as a minimum requirement compliance with the CAP-related requirements in section 11.56, and whether the reference to “analog television broadcast stations” should be deleted.
- Seeks comment, with respect to the equipment deployment tables in section 11.11, on whether: for CAP purposes, the tables should be revised by adding a footnote to the “EAS decoder” entries in the tables, indicating that EAS Participants may elect to meet their obligation to receive and translate CAP-formatted messages by deploying an intermediary device in addition to the EAS decoder used to decode messages transmitted in the EAS Protocol; the date references in the tables (as well as cross-references to these dates in other sections of Part 11, such as section 11.51(c) and (d)), along with the entry for two-tone encoders, should be deleted; the tables covering analog, wireless, and digital cable and wireline video systems can be combined into a single table, as well as any other revisions we could make to section 11.11 to streamline it and make it easier to follow.
- Seeks comment on whether the monitoring requirements in section 11.52 or references thereto should be incorporated into section 11.11.
- Seeks comment on whether the language of section 11.20 requires a specific reference to CAP alerts and/or CAP relay networks, and whether CAP monitoring requirements need to be incorporated into section 11.20.
- Tentatively concludes that the language in section 11.21(a) should be revised to make clear that the State Area EAS Plans specify the monitoring assignments and the specific primary and backup path for SAME-formatted EANs and that the monitoring requirements for CAP-formatted EANs are set forth in section 11.52.

- Tentatively concludes that the text of sections 11.21(a) and 11.55(a) should be revised to make clear that they apply to CAP-formatted EAS messages.
- Seeks comment on whether the FCC Mapbook content requirements in section 11.21(c) should be revised to identify federal and state CAP message origination and distribution, and whether alert message distribution should be delineated in terms of how the EAN is distributed from the PEP/NP to the PN/NN stations in the state as opposed to generating a list of each individual station in the state.
- Seeks comment on whether, in light the tentative conclusion to require conversion of CAP-formatted messages into the existing EAS Protocol, there would be any utility to changing the language in section 11.31(a) to better reflect CAP's capabilities.
- Tentatively concludes that it is unnecessary to include a CAP-receiving requirement in section 11.35(a).
- Seeks comment on whether any revisions to section 11.45 are needed to accommodate CAP-formatted messages.
- Tentatively concludes that, assuming EAS Participants should only be required at this time to be capable of retrieving CAP-formatted Federal EAS alerts from RSS feeds and converting them into SAME-compliant messages for transmission to the public (and, as applicable and technically feasible, encoding them in SAME for rebroadcast), there would be no basis for revising section 11.51 to require EAS Participants to transmit (or "render") a CAP-compliant message, as recommended by CSRIC.
- Seeks comment on whether the SAME-based protocol codes should continue to be used as the baseline for deriving the visual EAS message requirements in sections 11.51(d), (g)(3), (h)(3), and (j)(2).
- Seeks comment on whether CSRIC's recommendation to mandate that CAP-formatted messages be broadcast only if the scope of the alert is "Public" should be adopted.
- Seeks comment on whether, to the extent that section 11.54(b)(1) is retained in the final rules that result from this proceeding, the language in section 11.54(b)(1) should be revised to reflect federal CAP monitoring obligations by adding a cross-reference to the monitoring requirements in section 11.52 or whether this section should be otherwise revised.
- Seeks comment on whether and how compliance with respect to CAP functionality should be incorporated into the Commission's existing certification scheme.
- Tentatively concludes that it would be inappropriate to incorporate conformance with the CAP v1.2 USA IPAWS Profile v1.0 into the Commission's certification process.
- Seeks comment on whether and how the Commission should certify equipment conformance with the ECIG Implementation Guide, including whether and how conformance testing for the ECIG Implementation Guide might be implemented.

- Seeks comment generally as to whether the current FCC certification process is sufficient or whether there are any revisions specific to EAS equipment that would make that process more effective and efficient.
- Seeks comment on whether intermediary devices should be classified as stand-alone devices as opposed to modifications to existing equipment.
- Seeks comment on the certification requirements that should apply to modified EAS equipment.
- Seeks comment on whether the September 30, 2011, deadline for CAP-compliance set forth in the Waiver Order is sufficient or whether we should extend or modify it to be triggered by some action other than FEMA's adoption of CAP.
- Tentatively concludes that the obligation to receive and transmit CAP-formatted messages initiated by state governors applies only to the extent that such CAP messages have been formatted using the CAP standard adopted by FEMA for federal CAP messages – specifically, OASIS CAP Standard v1.2 and CAP v1.2 USA IPAWS Profile v1.0.
- Tentatively concludes that the obligation to receive and transmit only CAP-formatted messages initiated by state governors necessitates that such CAP messages will be translated into SAME-compliant messages consistent with the CAP-to-SAME translation standard adopted for federal CAP messages – specifically, the ECIG Implementation Guide.
- Seeks comment as to whether a new origination and/or event code would be required to fully implement the obligation of EAS Participants to process CAP-formatted messages initiated by state governors and, if so, what those codes should be.
- Seeks comment on whether the current obligation to process CAP-formatted messages delivered by the governor of the state in which the EAS Participant is located should be revised to include governors of any adjacent states in which the EAS Participant provides service.
- Tentatively concludes that the geo-targeting requirement associated with mandatory state governor alerts shall be defined, at least for the time being, by the location provisions in the EAS Protocol.
- Invites comment on whether local, county, tribal, or other state governmental entities should be allowed to initiate mandatory state and local alerts and how the Commission should decide which public officials should be permitted to activate such alerts.
- Seeks comment on whether the obligation to process CAP-formatted messages initiated by state governors should apply to Non-Participating National stations.
- Seeks comment on whether section 11.33(a)(9) should be revised to accommodate gubernatorial CAP-formatted messages.
- Seeks comment on whether there is any practical need to provide, in section 11.44 or elsewhere, gubernatorial CAP-formatted messages with priority over local EAS messages and whether such a scheme is technically feasible.

- Seeks comment on whether and how section 11.51(m) should be amended to incorporate the obligation to process CAP-formatted messages initiated by state governors.
- Seeks comment generally regarding whether the procedures for processing EANs set forth in section 11.54 and related Part 11 rule sections should be substantially simplified so that EAS Participants process EANs like any other EAS message, only on a mandatory and priority basis.
- Seeks comment on whether the option for EAS Participants to manually process EANs (but not state or local EAS messages) should be eliminated.
- Seeks comment on whether the EAT should be eliminated and replaced where necessary with the EOM in the Part 11 rules.
- Seeks comment on whether sections 11.54(b)(1), (3), (4), (10), and 11.54(c) should be deleted.
- Seeks comment on whether section 11.42 should be deleted.
- Seeks comment on whether the EAS Operating Handbook should be deleted and, if so, whether EAS Participants should be required to maintain within their facilities a copy of the current, FCC-filed and approved versions of the State and Local Area EAS Plans.
- Seeks comment on whether sections 11.54(a), (b)(2), and (5)-(8) should be deleted.
- Seeks comment on whether section 11.44 should be deleted.
- Seeks comment on whether, to the extent it should not be deleted, section 11.53 should be revised to incorporate CAP-formatted EAN messages.
- Seeks comment on whether, if streamlined EAN processing were adopted, section 11.11(a) should be revised to remove the references therein to “participating broadcast networks, cable networks and program suppliers; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels.”
- Seeks comment on whether sections 11.16 and 11.54(b)(12) should be deleted.
- Seeks comment on whether the definition for LP-1 stations in section 11.2(b) should be revised to reflect that these stations can be a radio or TV station.
- Tentatively concludes that section 11.14 should be deleted.
- Seeks comment, with respect to the PEP system definition in section 11.2(a), on whether the use of actual numbers to reflect the number of PEP stations should be eliminated, and whether the language in section 11.2(a) should be revised to clarify that the PEP stations distribute the EAN, EAS national test messages, and other EAS messages in accordance with the EAS Protocol requirements in section 11.31.
- Seeks comment on whether section 11.13 should be deleted and whether the definition for the EAN currently in section 11.13 should be moved to section 11.2.

- Tentatively concludes that the references to the Federal Information Processing Standard (FIPS) numbers (as described by the U.S. Department of Commerce in National Institute of Standards and Technology publication FIPS PUB 6-4.FIPS number codes) in section 11.31 and 11.34(d) should be replaced by references to the American National Standards Institute (ANSI) Codes INCITS 31.200x (Formerly FIPS 6-4), Codes for the Identification of Counties and Equivalent Entities of the United States, its Possessions, and Insular Areas standard that superseded it.
- Seeks comment on whether some or all of the current provisions relating to the Attention Signal in sections 11.32(9) and 11.33(b) can be deleted in favor of relying upon the minimal standard currently set forth in the EAS Protocol (at section 11.31(a)(2)) and, if so, which of the equipment-related Attention Signal requirements in sections 11.32(9) and 11.33(b) should be incorporated into section 11.31(a)(2).
- Seeks comment on whether the Attention Signal should be deleted from the Part 11 rules altogether.
- Tentatively concludes that section 11.12 should be deleted.
- Seeks comment on whether section 11.39(a)(9) and/or other Part 11 rule sections should be amended to make clear that an encoder should not transmit an EAS message that has been canceled via reset, or whether encoders should be permitted to air EAS messages that have been canceled via reset.
- Seeks comment on whether section 11.33(a)(3)(ii) should be revised by eliminating the requirement to delete messages upon expiration of their time periods, thus allowing EAS Participants to air alert messages after expiration of the effective time period set by the alert message originator.
- Tentatively concludes that the analog and digital broadcast station equipment deployment table in section 11.11(a) should be corrected so that “LPFM” and “LPTV” are identified with the columns listing the requirements for those categories, and that “LPFM” is included in sections 11.61(a)(1)(i) and 11.61(a)(2)(ii).
- Tentatively concludes that the Commission cannot provide training for state and local emergency managers.
- Seeks comment on whether CAP’s expansive capacity for relaying information could be leveraged within the existing technical framework of the EAS to improve access to emergency information to the public generally, and in particular, to persons with disabilities.

B. Legal Basis

4. Authority for the actions proposed in this *Third Further Notice* may be found in sections 1, 4(i), 4(o), 303(r), 403, 624(g), and 706 of the Communications Act of 1934, as amended, (Act) 47 U.S.C. §§ 151, 154(i), 154(j), 154(o), 303(r), 544(g), and 606.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein.¹⁰ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹¹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹² A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹³

6. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards.¹⁴ First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.¹⁵ In addition, a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”¹⁶ Nationwide, as of 2007, there were approximately 1,621,315 small organizations.¹⁷ Finally, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹⁸ Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States.¹⁹ We estimate that, of this total, as many as 88,506 entities may qualify as “small governmental jurisdictions.”²⁰ Thus, we estimate that most governmental

¹⁰ 5 U.S.C. § 604(a)(3).

¹¹ 5 U.S.C. § 601(6).

¹² 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

¹³ 15 U.S.C. § 632.

¹⁴ See 5 U.S.C. §§ 601(3)–(6).

¹⁵ See SBA, Office of Advocacy, “Frequently Asked Questions,” web.sba.gov/faqs (last visited May 6, 2011; figures are from 2009).

¹⁶ 5 U.S.C. § 601(4).

¹⁷ INDEPENDENT SECTOR, THE NEW NONPROFIT ALMANAC & DESK REFERENCE (2010).

¹⁸ 5 U.S.C. § 601(5).

¹⁹ U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES: 2011, Table 427 (2007)

²⁰ The 2007 U.S. Census data for small governmental organizations are not presented based on the size of the population in each such organization. There were 89,476 small governmental organizations in 2007. If we assume that county, municipal, township and school district organizations are more likely than larger governmental organizations to have populations of 50,000 or less, the total of these organizations is 52,125. If we make the same assumption about special districts, and also assume that special districts are different from county, municipal, township, and school districts, in 2007 there were 37,381 special districts. Therefore, of the 89,476 small governmental organizations documented in 2007, as many as 89,506 may be considered small under the applicable (continued....)

jurisdictions are small.

7. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than \$14.0 million in annual receipts.²¹ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”²² The Commission has estimated the number of licensed commercial television stations to be 1,390.²³ According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) as of January 31, 2011, 1,006 (or about 78 percent) of an estimated 1,298 commercial television stations²⁴ in the United States have revenues of \$14 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 391.²⁵ We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations²⁶ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

8. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

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standard. This data may overestimate the number of such organizations that has a population of 50,000 or less. U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES 2011, Tables 427, 426 (Data cited therein are from 2007).

²¹ See 13 C.F.R. § 121.201, NAICS Code 515120 (2007).

²² *Id.* This category description continues, “These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.” Separate census categories pertain to businesses primarily engaged in producing programming. See Motion Picture and Video Production, NAICS code 512110; Motion Picture and Video Distribution, NAICS Code 512120; Teleproduction and Other Post-Production Services, NAICS Code 512191; and Other Motion Picture and Video Industries, NAICS Code 512199.

²³ See News Release, “Broadcast Station Totals as of December 31, 2010,” 2011 WL 484756 (F.C.C.) (dated Feb. 11, 2011) (“*Broadcast Station Totals*”); also available at http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0211/DOC-304594A1.pdf.

²⁴ We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra*, note 15; however, we are using BIA’s estimate for purposes of this revenue comparison.

²⁵ See *Broadcast Station Totals*, *supra*, note 15.

²⁶ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 C.F.R. § 121.103(a)(1).

9. *Radio Stations.* The proposed rules and policies potentially will apply to all AM and FM radio broadcasting applicants, and proponents for new FM allotments, who qualify for the Tribal Priority adopted in the First Report and Order in this proceeding. The “Radio Stations” Economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.”²⁷ The SBA has established a small business size standard for this category, which is: such firms having \$7 million or less in annual receipts.²⁸ According to BIA/Kelsey, MEDIA Access Pro Database on January 13, 2011, 10,820 (97%) of 11,127 commercial radio stations have revenue of \$7 million or less. Therefore, the majority of such entities are small entities. We note, however, that in assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.²⁹ In addition, to be determined to be a “small business,” the entity may not be dominant in its field of operation.³⁰ We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

10. *Cable and Other Program Distribution.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.”³¹ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.³² According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year.³³ Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1000 employees or more.³⁴ Thus, under this size standard, the majority of firms can be considered small entities.

11. *Cable System Operators (Rate Regulation Standard).* The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers, nationwide.³⁵ Industry data

²⁷ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=515112&search=2007%20NAICS%20Search>.

²⁸ NAICS Code 515112, 13 C.F.R. 121.201.

²⁹ 15. USC 632.

³⁰ *Id.*

³¹ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers” (partial definition), <http://www.census.gov/naics/2007/def/ND517110.HTM#N517110>.

³² 13 C.F.R. § 121.201, NAICS code 517110 (2007).

³³ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, Employment Size of Firms for the United States: 2007, NAICS code 5171102 (issued Nov. 2010).

³⁴ *See id.*

³⁵ *See* 47 C.F.R. § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. *See Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation*, MM Docket Nos. 92-266, 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 para. 28 (1995).

indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.³⁶ In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.³⁷ Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers, and an additional 379 systems have 10,000-19,999 subscribers.³⁸ Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Notice.

12. *Cable System Operators (Telecom Act Standard)*. The Act also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."³⁹ The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.⁴⁰ Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard.⁴¹ We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million,⁴² and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

13. *Open Video Services*. The open video system ("OVS") framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers.⁴³ The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services,⁴⁴ OVS falls within the SBA small business size standard covering cable services, which is "Wired

³⁶ These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, "Top 25 Cable/Satellite Operators," pages A-8 & C-2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, "Ownership of Cable Systems in the United States," pages D-1805 to D-1857.

³⁷ See 47 C.F.R. § 76.901(c).

³⁸ WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, "U.S. Cable Systems by Subscriber Size," page F-2 (data current as of Oct. 2005). The data do not include 718 systems for which classifying data were not available.

³⁹ 47 U.S.C. § 543(m)(2); see also 47 C.F.R. § 76.901(f) & nn.1-3.

⁴⁰ 47 C.F.R. § 76.901(f); see *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (Cable Services Bureau 2001).

⁴¹ These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, "Top 25 Cable/Satellite Operators," pages A-8 & C-2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, "Ownership of Cable Systems in the United States," pages D-1805 to D-1857.

⁴² The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules.

⁴³ 47 U.S.C. § 571(a)(3)-(4). See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 06-189, Thirteenth Annual Report, 24 FCC Rcd 542, 606 para. 135 (2009) ("*Thirteenth Annual Cable Competition Report*").

⁴⁴ See 47 U.S.C. § 573.

Telecommunications Carriers.”⁴⁵ The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 3,188 firms in this previous category that operated for the entire year.⁴⁶ Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or more.⁴⁷ Thus, under this size standard, most cable systems are small and may be affected by rules adopted pursuant to the Notice. In addition, we note that the Commission has certified some OVS operators, with some now providing service.⁴⁸ Broadband service providers (“BSPs”) are currently the only significant holders of OVS certifications or local OVS franchises.⁴⁹ The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

14. *Wired Telecommunications Carriers.* The 2007 North American Industry Classification System (“NAICS”) defines “Wired Telecommunications Carriers” as follows: “This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”⁵⁰ The SBA has developed a small business size standard for wireline firms within the broad economic census category, “Wired Telecommunications Carriers.”⁵¹ Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007, which supersedes data from the 2002 Census, show that 3,188 firms operated in 2007 as Wired Telecommunications Carriers. 3,144 had 1,000 or fewer employees, while 44 operated with more than 1,000 employees.⁵²

15. *Broadband Radio Service and Educational Broadband Service (FCC Auction Standard).* The established rules apply to Broadband Radio Service (“BRS,” formerly known as Multipoint Distribution Systems, or “MDS”) operated as part of a wireless cable system. The Commission has

⁴⁵ U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers”; <http://www.census.gov/naics/2007/def/ND517110.HTM#N517110>.

⁴⁶ U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 5, Employment Size of Firms for the United States: 2007, NAICS code 5171102 (issued Nov. 2010).

⁴⁷ *See id.*

⁴⁸ A list of OVS certifications may be found at <http://www.fcc.gov/mb/ovs/csovsr.html>.

⁴⁹ *See Thirteenth Annual Cable Competition Report*, 24 FCC Rcd at 606-07 para. 135. BSPs are newer firms that are building state-of-the-art, facilities-based networks to provide video, voice, and data services over a single network.

⁵⁰ *See* U.S. Census Bureau, 2007 NAICS Definitions, “517110 Wired Telecommunications Carriers,” <http://www.census.gov/naics/2007/def/ND517110.HTM#N517110> (last visited May 11, 2011).

⁵¹ 13 C.F.R. § 121.201 (NAICS code 517110).

⁵² *See* http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=900&-ds_name=EC0751SSSZ4&-lang=en (last visited May 11, 2011).

defined "small entity" for purposes of the auction of BRS frequencies as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years.⁵³ The SBA has approved this definition of small entity in the context of MDS auctions.⁵⁴ The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas. Of 67 winning bidders, 61 qualified as small entities. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities.⁵⁵ After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, which offered 78 BRS licenses.⁵⁶ Auction 86 concluded with ten bidders winning 61 licenses.⁵⁷ Of the ten, two bidders claimed small business status and won 4 licenses; one bidder claimed very small business status and won three licenses; and two bidders claimed entrepreneur status and won six licenses.⁵⁸

16. The proposed rules would also apply to Educational Broadband Service ("EBS," formerly known as Instructional Television Fixed Service, or "ITFS") facilities operated as part of a wireless cable system. The SBA definition of small entities for pay television services, Cable and Other Subscription Programming, also appears to apply to EBS.⁵⁹ There are presently 2,032 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business.⁶⁰ However, we do not collect annual revenue data for EBS licensees and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 are small businesses and may be affected by the proposed rules.

⁵³ 47 C.F.R. § 21.961(b)(1).

⁵⁴ *See Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, MM Docket No. 94-131 and PP Docket No. 93-253, Report and Order, 10 FCC Rcd 9589 (1995).

⁵⁵ 47 U.S.C. § 309(j). The Commission licensed hundreds of stations to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. § 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard.

⁵⁶ *Auction 86 Procedures Public Notice*, 24 FCC Rcd at 8280.

⁵⁷ "Auction of Broadband Radio Service Licenses Closes, Winning Bidders Announced for Auction 86, Down Payments Due November 23, 2009, Final Payments Due December 8, 2009, Ten-Day Petition to Deny Period," *Public Notice*, 24 FCC Rcd 13,572 (WTB 2009).

⁵⁸ The Commission's standards for small business bidding credits for BRS are set forth in section 27.1218, 47 C.F.R. § 27.1218. *See also* "Auction of Broadband Radio Service (BRS) Licenses, Scheduled for October 27, 2009, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 86," *Public Notice*, 24 FCC Rcd 8277, 8296 (WTB 2009) (*Auction 86 Procedures Public Notice*).

⁵⁹ 13 C.F.R. § 121.201, NAICS code 515210.

⁶⁰ 5 U.S.C. § 601(3).

17. *Wireless Telecommunications Carriers (except Satellite)*. Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category.⁶¹ Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications."⁶² Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.⁶³ For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.⁶⁴ Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.⁶⁵ Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.⁶⁶ Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

18. *Incumbent Local Exchange Carriers (LECs)*. We have included small incumbent LECs in this IRFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees) and "is not dominant in its field of operation."⁶⁷ The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.⁶⁸ We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under

⁶¹ U.S. Census Bureau, 2007 NAICS Definitions, "Wireless Communications Carriers (Except Satellite), NAICS code 517210"; <http://www.census.gov/naics/2007/def/ND517210.HTM#N517210>.

⁶² U.S. Census Bureau, 2002 NAICS Definitions, "517211 Paging"; <http://www.census.gov/epcd/naics02/def/NDEF517.HTM>; U.S. Census Bureau, 2002 NAICS Definitions, "517212 Cellular and Other Wireless Telecommunications"; <http://www.census.gov/epcd/naics02/def/NDEF517.HTM>.

⁶³ 13 C.F.R. § 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

⁶⁴ U.S. Census Bureau, 2007 Economic Census, Sector 51, 2007 NAICS code 517210 (rel. Oct. 20, 2009), http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=700&-ds_name=EC0751SSSZ5&-_lang=en.

⁶⁵ See *Trends in Telephone Service* at Table 5.3.

⁶⁶ See *id.*

⁶⁷ 15 U.S.C. § 632.

⁶⁸ Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small-business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. See 13 C.F.R. § 121.102(b).

that size standard, such a business is small if it has 1,500 or fewer employees.⁶⁹ According to Commission data,⁷⁰ 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees, and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our proposed rules.

19. *Competitive (LECs), Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁷¹ According to Commission data,⁷² 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees, and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are "Shared-Tenant Service Providers," and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are "Other Local Service Providers." Of the 39, an estimated 38 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities.

20. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules.⁷³ The second has a size standard of \$25 million or less in annual receipts.⁷⁴

21. The category of Satellite Telecommunications "comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."⁷⁵ Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year.⁷⁶ Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10 million to \$24,999,999.⁷⁷ Consequently, the majority of Satellite Telecommunications firms can be considered small entities.

⁶⁹ 13 C.F.R. § 121.201, NAICS code 517110.

⁷⁰ *Trends in Telephone Service*, Table 5.3.

⁷¹ 13 C.F.R. § 121.201, NAICS code 517110.

⁷² *Trends in Telephone Service*, Table 5.3.

⁷³ 13 C.F.R. § 121.201, NAICS code 517410.

⁷⁴ 13 C.F.R. § 121.201, NAICS code 517919.

⁷⁵ U.S. Census Bureau, 2007 NAICS Definitions, "517410 Satellite Telecommunications."

⁷⁶ See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=900&-ds_name=EC0751SSSZ4&-_lang=en.

⁷⁷ See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=900&-ds_name=EC0751SSSZ4&-_lang=en

22. The second category, i.e. “All Other Telecommunications” comprises “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.”⁷⁸ For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.⁷⁹ Of this total, 2,347 firms had annual receipts of under \$25 million and 12 firms had annual receipts of \$25 million to \$49, 999,999.⁸⁰ Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

23. *Direct Broadcast Satellite (“DBS”) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic “dish” antenna at the subscriber’s location. DBS, by exception, is now included in the SBA’s broad economic census category, “Wired Telecommunications Carriers,”⁸¹ which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees.⁸² To gauge small business prevalence for the DBS service, the Commission relies on data currently available from the U.S. Census for the year 2007. According to that source, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with more than 1,000 employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Based on this data, the majority of these firms can be considered small.⁸³ Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and EchoStar Communications Corporation (“EchoStar”) (marketed as the DISH Network).⁸⁴ Each currently offers subscription services. DIRECTV⁸⁵ and EchoStar⁸⁶ each report annual revenues that are in excess of the threshold for a small

⁷⁸ <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517919&search=2007%20NAICS%20Search>

⁷⁹ U.S. Census http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=900&-ds_name=EC0751SSSZ4&-_lang=en.

⁸⁰ http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-_skip=900&-ds_name=EC0751SSSZ4&-_lang=en.

⁸¹ See 13 C.F.R. § 121.201, NAICS code 517110 (2007). The 2007 NAICS definition of the category of “Wired Telecommunications Carriers” is in paragraph 7, above.

⁸² 13 C.F.R. § 121.201, NAICS code 517110 (2007).

⁸³ See http://www.factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=600&-ds_name=EC0751SSSZ5&-_lang=en.

⁸⁴ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Thirteenth Annual Report, 24 FCC Rcd 542, 580, ¶ 74 (2009) (“13th Annual Report”). We note that, in 2007, EchoStar purchased the licenses of Dominion Video Satellite, Inc. (“Dominion”) (marketed as Sky Angel). See Public Notice, “Policy Branch Information; Actions Taken,” Report No. SAT-00474, 22 FCC Rcd 17776 (IB 2007).

⁸⁵ As of June 2006, DIRECTV is the largest DBS operator and the second largest MVPD, serving an estimated 16.20% of MVPD subscribers nationwide. See *13th Annual Report*, 24 FCC Rcd at 687, Table B-3.

business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

24. There are possible revisions to current Part 11 reporting or recordkeeping requirements proposed in this *Third Further Notice*, specifically as regards:

- Potential revisions modifying section 11.33(a)(4) to require that if an alert message is derived from a CAP-formatted message, the contents of the text, assembled pursuant to ECIG Implementation Guide, should be added to the EAS device log. This revision merely applies a current reporting requirement to a new technical protocol and we do not expect it to alter the reporting burden to any appreciable degree.
- Our tentatively conclusion that the language in section 11.21(a) should be revised to make clear that the State EAS Plans specify the monitoring assignments and the specific primary and backup path for SAME-formatted EANs. This revision merely applies a current reporting requirement to a new technical protocol and we do not expect it to alter the reporting burden to any appreciable degree. The revision will ensure the accuracy of EAS operational documents and thus contribute to public safety. Accordingly, the Commissions believes the revision to be necessary.

25. The proposals set forth in this *Third Further Notice* are intended to advance our public safety mission and enhance the performance of the EAS while reducing regulatory burdens wherever possible.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

26. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”⁸⁷

27. EAS Participants already are required to comply with the CAP-related obligations set forth in sections 11.55 and 11.56. The *Third Further Notice* seeks comment on dozens of potential revisions to Part 11 of the Commission’s rules that are necessary in order for EAS Participants to meet these existing obligations and, more generally, to streamline and make more efficient the operation of the EAS. The majority of the rule revisions under consideration are not designed to introduce new obligations that do not already exist, but rather, more clearly identify and effect within Part 11 the CAP obligations adopted in the *Second Report and Order*. In this regard, these revisions are designed to minimally impact all EAS

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⁸⁶ As of June 2006, DISH Network is the second largest DBS operator and the third largest MVPD, serving an estimated 13.01% of MVPD subscribers nationwide. *Id.* As of June 2006, Dominion served fewer than 500,000 subscribers, which may now be receiving “Sky Angel” service from DISH Network. *See id.* at 581, ¶ 76.

⁸⁷ 5 U.S.C. § 603(c)(1) – (c)(4).

Participants, including small entities, to the extent feasible, while at the same time protecting the lives and property of all Americans, which confers a direct benefit on small entities. For example, the rule revisions under consideration would maintain the existing EAS architecture and potentially permit affected parties to meet their CAP-related obligations via intermediary devices, which potentially may alleviate the need to obtain new EAS equipment for many EAS Participants. Similarly, the proposed revisions to EAN processing would make the Part 11 rules simpler both to understand and implement within equipment designs. Because the proposed revisions are required to implement existing obligations within Part 11, no alternatives were considered. However, commenters are invited to suggest steps that the Commission may take to further minimize any significant economic impact on small entities. When considering proposals made by other parties, commenters are invited to propose alternatives that serve the goal of minimizing the impact on small entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

28. None.