FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; FCC 11–82]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on proposed changes to its rules governing the Emergency Alert System (EAS) to codify the obligation to process alert messages formatted in the Common Alerting Protocol (CAP) and to streamline and clarify these rules generally to enhance their effectiveness.

DATES: Comments are due on or before July 20, 2011 and reply comments are due on or before August 4, 2011.

ADDRESSES: You may submit comments, identified by EB Docket No. 04–296, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by *e-mail: FCC504@fcc.gov* or *phone:* 202–418–0530 or *TTY:* 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–7452, or by e-mail at *Lisa.Fowlkes@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judy Boley Hermann at (202) 418–0214 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking (*Third FNPRM*) in EB Docket No. 04–296, FCC 11–82, adopted on May 25, 2011, and released on May 26, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 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 the Third Further Notice of Proposed Rulemaking (*Third FNPRM*). The Commission requests 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 FNPRM* provided in section IV of the item. The Commission will send a copy of the *Third FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Third FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register.**

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 (*Second Report and Order*) in EB Docket No. 04–296, 72 FR 62123, November 2, 2007, which incorporated certain Common Alerting Protocol (CAP)-related obligations into the Commission's Part 11 EAS rules. 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. 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. 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.

3. The *Third FNPRM* 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, the *Third FNPRM* 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 § 11.56 of the Commission's rules 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.
- Tentatively concludes that § 11.52 of the Commission's rules 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 systems 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 § 11.32(a) of the Commission's rules 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 §§ 11.32(a)(2) and (a)(3) of the Commission's rules 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 the minimum requirements for decoders in § 11.33(a) of the Commission's rules 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 §§ 11.33(a)(1) and (a)(7) of the Commission's rules 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 § 11.33(a)(4) of the Commission's rules 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 § 11.33(a)(10) of the Commission's rules to require processing of CAP-formatted messages 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 § 11.33(a)(11) of the Commission's rules 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 § 11.11(a) of the Commission's rules should be amended to include as a minimum requirement compliance with the CAP-related requirements in § 11.56 of the Commission's rules, and whether the reference to ''analog television broadcast stations'' should be deleted.

• Seeks comment, with respect to the equipment deployment tables in § 11.11 of the Commission's rules, 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 §§ 11.51(c) and (d) of the Commission's rules), 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 the Commission could make to § 11.11 of the Commission's rules to streamline it and make it easier to follow.

• Seeks comment on whether the monitoring requirements in § 11.52 of the Commission's rules or references thereto should be incorporated into § 11.11 of the Commission's rules.

• Seeks comment on whether the language of § 11.20 of the Commission's rules requires a specific reference to CAP alerts and/or CAP relay networks, and whether CAP monitoring requirements need to be incorporated into § 11.20 of the Commission's rules.

• Tentatively concludes that the language in § 11.21(a) of the Commission's rules 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 § 11.52 of the Commission's rules.

• Tentatively concludes that the text of §§ 11.21(a) and 11.55(a) of the Commission's rules should be revised to make clear that they apply to CAP-formatted EAS messages.

• Seeks comment on whether the FCC Mapbook content requirements in § 11.21(c) of the Commission's rules 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 of 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 § 11.31(a) of the Commission's rules to better reflect CAP's capabilities.

• Tentatively concludes that it is unnecessary to include a CAP-receiving requirement in § 11.35(a) of the Commission's rules.

• Seeks comment on whether any revisions to § 11.45 of the Commission's rules 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 § 11.51 of the Commission's rules 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 §§ 11.51(d), (g)(3), (h)(3), and (j)(2) of the Commission's rules.

• 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 § 11.54(b)(1) of the Commission's rules is retained in the final rules that result from this proceeding, the language in § 11.54(b)(1) of the Commission's rules should be revised to reflect federal CAP monitoring obligations by adding a cross-reference to the monitoring requirements in § 11.52 of the Commission's rules 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 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 the Commission 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 § 11.33(a)(9) of the Commission's rules should be revised to accommodate gubernatorial CAP-formatted messages.

• Seeks comment on whether there is any practical need to provide, in § 11.44 of the Commission's rules 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 § 11.51(m) of the Commission's rules 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 § 11.54 of the Commission's rules 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 §§ 11.54(b)(1), (b)(3), (b)(4), (b)(10), and 11.54(c) of the Commission's rules should be deleted.

• Seeks comment on whether § 11.42 of the Commission's rules 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 §§ 11.54(a), (b)(2), and (b)(5) through (b)(8) of the Commission's rules should be deleted.

• Seeks comment on whether § 11.44 of the Commission's rules should be deleted.

• Seeks comment on whether, to the extent it should not be deleted, § 11.53 of the Commission's rules should be revised to incorporate CAP-formatted EAN messages.

• Seeks comment on whether, if streamlined EAN processing were adopted, § 11.11(a) of the Commission's rules 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 §§ 11.16 and 11.54(b)(12) of the Commission's rules should be deleted.

• Seeks comment on whether the definition for LP–1 stations in § 11.2(b) of the Commission's rules should be revised to reflect that these stations can be a radio or TV station.

• Tentatively concludes that § 11.14 of the Commission's rules should be deleted.

• Seeks comment, with respect to the PEP system definition in § 11.2(a) of the Commission's rules, on whether the use of actual numbers to reflect the number of PEP stations should be eliminated, and whether the language in § 11.2(a) of the Commission's rules 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 § 11.31 of the Commission's rules.

• Seeks comment on whether § 11.13 of the Commission's rules should be deleted and whether the definition for the EAN currently in § 11.13 of the Commission's rules should be moved to § 11.2 of the Commission's rules.

• 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 §§ 11.31 and 11.34(d) of the Commission's rules 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 §§ 11.32(a)(9)

and 11.33(b) of the Commission's rules can be deleted in favor of relying upon the minimal standard currently set forth in the EAS Protocol (at § 11.31(a)(2) of the Commission's rules) and, if so, which of the equipment-related Attention Signal requirements in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules should be incorporated into § 11.31(a)(2) of the Commission's rules.

• Seeks comment on whether the Attention Signal should be deleted from the part 11 rules altogether.

• Tentatively concludes that § 11.12 of the Commission's rules should be deleted.

• Seeks comment on whether § 11.39(a)(9) of the Commission's rules 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 § 11.33(a)(3)(ii) of the Commission's rules 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 § 11.11(a) of the Commission's rules 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 §§ 11.61(a)(1)(i) and 11.61(a)(2)(ii) of the Commission's rules.

• 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 the *Third FNPRM* 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. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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).

6. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's action may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA. 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.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. 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.'' Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88, 506 entities may qualify as ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental 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. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,390. 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 stations 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. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by its 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. The Commission is 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. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

9. *Radio Stations.* The proposed rules and policies potentially will apply to all AM and commercial FM radio broadcasting licensees and potential licensees. 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.'' The SBA has established a small business size standard for this category, which is: Such firms having $7 million or less in annual receipts. 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. The Commission notes,

however, that in assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included. In addition, to be determined to be a ''small business,'' the entity may not be dominant in its field of operation. The Commission notes that it is difficult at times to assess these criteria in the context of media entities, and its 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.'' 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 955 firms in this previous category that operated for the entire year. Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1,000 employees or more. 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. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. 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. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the *Third FNPRM.*

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.'' 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. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore is 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. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' 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. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1,000 employees or more. Thus, under this size standard, most cable systems are small and may be affected by rules adopted pursuant to the *Third FNPRM.* In addition, the Commission notes that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (BSPs) are currently the only significant holders of OVS certifications or local OVS franchises. 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.'' The SBA has developed a small business size standard for wireline firms within the broad economic census category, ''Wired Telecommunications Carriers.'' 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 supersede 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.

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 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. The SBA has approved this definition of small entity in the context of MDS auctions. 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, the Commission estimates 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. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds 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. Auction 86 concluded with ten bidders winning 61 licenses. 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.

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. 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. However, the Commission does not collect annual revenue data for EBS licensees and is not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, the Commission tentatively concludes that at least 1,932 are small businesses and may be affected by the proposed rules.

17. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. 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. 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. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

18. *Incumbent Local Exchange Carriers (LECs).* The Commission has 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.'' 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. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although it emphasizes 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 that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 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 the 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. According to Commission data, 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. The second has a size standard of $25 million or less in annual receipts.

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.'' Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999. Consequently, the majority of Satellite Telecommunications firms can be considered small entities.

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.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. 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. Consequently, the Commission estimates that the majority of All Other

Telecommunications firms are small entities that might be affected the proposed actions in the *Third FNPRM.*

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,'' 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. 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. 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). Each currently offers subscription services. DIRECTV and EchoStar each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, the Commission believes 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 FNPRM,* specifically as regards:

- Potential revisions modifying § 11.33(a)(4) of the Commission's rules 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 the Commission does not expect it to alter the reporting burden to any appreciable degree.
- The Commission's tentative conclusion that the language in § 11.21(a) of the Commission's rules 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 thus is not expected 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 Commission believes the revision to be necessary.

25. The proposals set forth in the *Third FNPRM* are intended to advance the Commission's 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.''

27. EAS Participants already are required to comply with the CAP-related obligations set forth in §§ 11.55 and 11.56 of the Commission's rules. The *Third FNPRM* 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 proceeding. In this regard, these revisions are designed to minimally impact all EAS 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.

Synopsis of the Third FNPRM

1. In the *Third FNPRM,* the Commission seeks comment on several proposed changes to its Part 11 Emergency Alert System (EAS) rules to more fully codify the Common Alerting Protocol (CAP)-related obligations adopted in the Second Report and Order (*Second Report and Order*) and to eliminate outdated rules to improve part 11's overall effectiveness.

I. Background

2. The present-day EAS is a hierarchical alert message distribution system that utilizes radio and television broadcasters, cable service providers, and other regulated entities (collectively known as EAS Participants) to transmit audio and/or visual emergency alert messages to the public. To initiate an EAS message, whether at the national, state, or local levels, the message originator must format a message in the EAS Protocol, which is identical to the Specific Area Message Encoding (SAME) digital protocol utilized by National Weather Service (NWS) (hereinafter, ''EAS Protocol'' and ''SAME'' are used interchangeably), and send the formatted alert to a designated entry point within the EAS network for delivery to specialized equipment maintained and operated by EAS Participants that can receive (and decode) the alert for transmission over

the EAS Participants' facilities to their end users.

3. In 2007, the Commission adopted the *Second Report and Order* in this docket, which revised the Commission's part 11 EAS rules to lay the foundation for a state-of-the-art, next-generation national EAS (Next Generation EAS). 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. 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. 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.

4. CAP is an open, interoperable XML-based standard, developed within the Organization for the Advancement of Structured Information Standards (OASIS) standards process, which permits links to voice, audio or data files, images, multilingual translations of alerts, and links providing further information.

5. On March 25, 2010, in anticipation of FEMA's adoption of CAP, the Commission's Public Safety and Homeland Security Bureau (Bureau) released a Public Notice (*part 11 Public Notice*) in EB Docket No. 04–296, DA 10–500, released on March 25, 2010, that sought informal comment regarding what, if any, Part 11 changes might be necessitated by the introduction of CAP.

6. On October 7, 2010, the Communications Security, Reliability, and Interoperability Council (CSRIC), which had been established by the Commission to, among other things, recommend revisions to the part 11 rules in light of FEMA's then-pending adoption of CAP, adopted a Final Report, which included a number of recommendations for revisions to the part 11 rules related to the obligation to accept CAP-formatted messages.

7. On September 30, 2010, FEMA announced its adoption of technical standards and requirements for CAP-formatted EAS alerts. Specifically, FEMA identified three documents as defining the FEMA Integrated Public Alert and Warning System (IPAWS) technical standards and requirements for CAP and its implementation: (1) The OASIS CAP Standard v1.2; (2) an IPAWS Specification to the CAP Standard (CAP v1.2 IPAWS USA Profile v1.0); and (3) the EAS–CAP Industry Group's (ECIG) Recommendations for a CAP–EAS Implementation Guide, Version 1.0 (May 17, 2010) (ECIG Implementation Guide). FEMA's announced adoption of CAP v1.2 triggered an initial deadline for EAS Participants to be able to receive CAP alerts by March 29, 2011.

8. On November 18, 2010, in response to the recommendations in CSRIC's Final Report, as well as to comments submitted in response to the *part 11 Public Notice,* the Commission adopted an order that extended the 180-day deadline for meeting the CAP-related obligations until September 30, 2011 (the *Waiver Order*).

II. Discussion

9. The *Third FNPRM* builds on the foregoing efforts by seeking comment on what changes the Commission should make to the part 11 rules to fully effectuate the CAP-related obligations adopted in the *Second Report and Order,* as well as other rule changes and clarifications intended to streamline part 11 and generally enhance the overall effectiveness of the EAS. The specific rule changes proposed for consideration in the *Third FNPRM* are included in the rules section.

10. The tentative conclusions, proposed rule changes and other proposals set forth in the *Third FNPRM* are summarized below. With respect to each, the Commission invites general comments as well as comments directed specifically at their technical and operational effectiveness. The Commission also seeks comment on whether these tentative conclusions, proposed rule changes and other proposals are sufficient to capture the overall goals of this proceeding; whether they are necessary; their potential costs and benefits; how any requirements under consideration might be tailored to impose the least amount of burden on those affected; and what explicit performance objectives, if any, should be specified to facilitate monitoring the success of any potential course of action.

A. Scope of CAP-Related Part 11 Revisions

11. The Commission's tentative view is that while the EAS Protocol is more limited regarding the information it can convey than CAP, the many benefits of maintaining the legacy EAS previously outlined by the Commission in the *Second Report and Order* continue to apply today. Moreover, FEMA has stated that the legacy EAS will continue to provide a nationwide alerting mechanism to operate as part of its IPAWS system. Further, even after IPAWS is deployed, it is not clear that state alerting authorities and personnel involved with initiating state alerts will be able to initiate anything other than SAME-formatted messages for some time, and we observe that NWS has yet to indicate a date by which it will be switching to a CAP-based alerting format. Thus, switching over to a fully CAP-centric EAS system—where EAS messages are inputted and outputted in CAP format rather than SAME format—at this time could be detrimental to the entities that utilize the EAS the most: states and NWS. Finally, FEMA has adopted the standards necessary for formatting alert messages into CAP and translating such CAP-formatted messages into SAME-compliant messages; thus, the groundwork for implementing CAP-formatted alert initiation within the existing EAS system is already in place.

12. Accordingly, the Commission tentatively concludes that, for the time being, it will continue the approach adopted in the *Second Report and Order* and maintain the existing legacy EAS, including utilization of the SAME protocol. To be clear, under this transitional approach, the CAP-related changes to Part 11 addressed in this item are designed to permit EAS Participants to process and transmit CAP-formatted messages over the existing EAS, but subject to the technical requirements and limitations of the existing EAS (*i.e.,* the CAP-formatted message will be converted into and broadcast—and to the extent feasible, encoded for rebroadcast—in the SAME format) until the Next Generation EAS has been fully deployed and is ready to replace (or operate in parallel with) the existing EAS. The Commission also tentatively concludes that it will defer to its planned Notice of Inquiry on Broadband Alerting consideration of what changes, if any, to the part 11 rules may be necessitated by the adoption of a CAP-based Next Generation EAS alerting system that might replace or operate in parallel with the current EAS. The Commission seeks comment on these tentative conclusions.

B. Obligation To Accept CAP Messages

13. *CAP-Formatted Message Translation to SAME.* To ensure greater

uniformity in the output of devices subject to Part 11, the Commission tentatively concludes that it should amend § 11.56 of the Commission's rules to require EAS Participants to convert CAP-formatted EAS messages into SAME-compliant EAS messages in accordance with the ECIG Implementation Guide. Adopting the ECIG Implementation Guide as the standard for translating CAP-formatted messages into SAME-compliant messages should harmonize CAP elements with the part 11 rules, thus ensuring that CAP-formatted EAS messages are converted into SAME-compliant messages in a consistent manner across devices and delivery platforms. The Commission seeks comment on this proposal.

14. *CAP-Related Monitoring Requirements.* As a preliminary matter, the Commission observes that the technical construction and distribution methodologies of CAP messages are different from SAME messages. For example, SAME-formatted messages are AFSK-modulated data messages that are received by monitoring the over-the-air broadcasts of designated broadcast stations. CAP messages are IP-based data packets that can be distributed using various distribution models. FEMA has indicated that the IPAWS system will employ Really Simple Syndication, version 2.0 (RSS), to distribute CAP-formatted alerts to EAS Participants. Under this alert distribution model, RSS-configured EAS equipment will poll FEMA's RSS source at periodic intervals (programmed into the EAS equipment by the EAS Participant), and any pending CAP messages will be sent via the RSS feed to the EAS equipment. The CAP message will be wholly contained within the RSS file's ''description'' field, and EAS equipment will extract the CAP data in accordance with the ECIG Implementation Guide to ensure an EAS Protocol-compliant output. Accordingly, the Commission tentatively concludes that it should amend § 11.52 of the Commission's rules to include a requirement that EAS Participants monitor FEMA's IPAWS RSS feed(s) for federal CAP-formatted messages. The Commission seeks comment on this tentative conclusion.

15. The Commission did not specify monitoring requirements for CAP-formatted messages initiated by state governors (or their designees) in the *Second Report and Order,* although it did require that the State Area EAS Plan submitted for FCC approval specify the methodology for aggregating and delivering such messages. The Commission proposes that EAS equipment should only be required to employ the same monitoring functionality for state CAP messages that are used for federal CAP messages (*i.e.,* RSS). Accordingly, the Commission tentatively concludes that it should amend § 11.52 of the Commission's rules to include a requirement that EAS Participants monitor the RSS feed(s) designated by a state as the source of governor-originated CAP messages (and identified in the state's EAS Plan submitted to and approved by the Commission). The Commission seeks comment on this proposal.

16. *Next Generation Distribution Systems.* In the *Second Report and Order,* the Commission stated that ''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 Commission incorporated this obligation into § 11.56 of the Commission's rules, which provides that ''all EAS Participants must be able to receive CAP-formatted EAS alerts * * * after FEMA publishes the technical standards and requirements for such FEMA transmissions.''

17. In the *Third FNPRM,* the Commission clarifies that the above-quoted language from the *Second Report and Order* 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. The Commission further clarifies that the intent behind the language was not to permit FEMA to create or modify existing requirements via publication or adoption of a technical standard. Rather, the general intent was to revise the existing Part 11 rules to permit initiation and carriage of CAP-based alert messages over the existing EAS, subject to the technical requirements and limitations of the existing EAS, until such time as the Next Generation EAS has been fully deployed. The Commission further indicates that whatever obligations may arise with respect to the Next Generation EAS will be addressed in future proceedings. The Commission seeks comment on whether further clarification of the EAS Participants' obligation to receive and process CAP-formatted EAS messages delivered over Next Generation EAS distribution systems is necessary.

18. *Equipment Requirements.* The *Third FNPRM* seeks comment on several CAP-related proposals related to EAS equipment, as summarized below.

19. *Intermediary Devices.* The Commission seeks comment on whether EAS Participants should be permitted to meet their CAP-related obligations by deploying intermediary devices that would carry out the function of receiving and decoding the CAP-formatted messages, translating those messages into SAME format, and then feeding that SAME-formatted message into a legacy EAS device for transmission over the EAS Participant's transmission platform.

20. The Commission observes that these devices would appear to receive a CAP-based alert and encode it into a SAME-formatted message that is fed into the audio input of the EAS Participant's legacy EAS equipment, just as if that message had been received over-the-air from another station. Accordingly, in addition to comments generally on this topic, the Commission seeks comment on whether intermediary devices should be subject to some or all of the encoder requirements set forth in § 11.32 of the Commission's rules and the transmission requirements in § 11.51 of the Commission's rules and/or the decoder requirements set forth in § 11.33 of the Commission's rules and the monitoring requirements in § 11.52 of the Commission's rules.

21. *Section 11.32(a).* With respect to § 11.32(a) of the Commission's rules, the Commission seeks comment on whether adding a requirement that EAS encoders be required to 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.

22. *Section 11.32(a)(2) and (a)(3).* The Commission seeks comment on whether it should modify the input and output configuration requirements in §§ 11.32(a)(2) and (a)(3) of the Commission's rules to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS–232C interface.

23. *Section 11.33(a).* The Commission seeks comment on whether the minimum requirements for decoders in § 11.33(a) of the Commission's rules 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.

24. *Section 11.33(a)(1) and (a)(7).* The Commission seeks comment on whether it should modify the input and output configuration requirements in §§ 11.33(a)(1) and (a)(7) of the Commission's rules to include a requirement for a single Ethernet port and eliminate the existing requirements for 1200 baud RS–232C interface.

25. *Section 11.33(a)(4).* The Commission seeks comment on whether it should amend § 11.33(a)(4) of the Commission's rules 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.

26. *Section 11.33(a)(10).* With respect to CSRIC's recommendation to revise § 11.33(a)(10) of the Commission's rules such that when duplicate messages are received in both the EAS Protocol and CAP formats, the CAP message is processed by default, the Commission tentatively concludes that no such revision would be required if it were to require EAS Participants to translate CAP-formatted messages into SAME-formatted messages in conformance with the ECIG Implementation Guide. The Commission seeks comment on this tentative conclusion.

27. *Section 11.33(a)(11).* The Commission seeks comment as to whether it should update § 11.33(a)(11) of the Commission's rules 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.

28. *Miscellaneous Rule Changes Related to Fully Implementing CAP.* The *Third FNPRM* seeks comment on several miscellaneous proposals related to more fully implementing CAP within Part 11, as summarized below.

29. *Section 11.1.* The Commission seeks comment on whether § 11.1 of the Commission's rules should be revised to include CAP alert originators, such as state governors, as entities for whom the EAS provides a means of emergency communication with the public in their state or local area, or whether the language currently in § 11.1 of the Commission's rules is broad enough to capture these entities.

30. *Section 11.11.* The Commission seeks comment on whether it should amend the text of § 11.11(a) of the Commission's rules to include as a minimum requirement compliance with the CAP-related requirements in § 11.56 of the Commission's rules, and whether it should delete the reference to ''analog television broadcast stations'' from § 11.11 of the Commission's rules entirely.

31. With respect to the equipment deployment tables in § 11.11 of the Commission's rules, the Commission seeks comment on whether, for CAP purposes, it should amend these 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 Commission further seeks comment on whether it should delete the date references in the equipment deployment tables (as well as cross-references to these dates in other sections of Part 11, such as §§ 11.51(c) and (d) of the Commission's rules), along with the entry for two-tone encoders. The Commission also seeks comment on whether the equipment deployment tables covering analog, wireless, and digital cable and wireline video systems can be combined into a single table, as well as any other revisions to § 11.11 of the Commission's rules to streamline it and make it easier to follow. Finally, the Commission seeks comment on whether it should incorporate the CAP monitoring requirements or references thereto into § 11.11 of the Commission's rules.

32. *Section 11.20.* The Commission seeks comment on whether the language of § 11.20 of the Commission's rules requires a specific reference to CAP alerts and/or CAP relay networks. The Commission also seeks comment on whether there is a need to incorporate CAP monitoring into § 11.20 of the Commission's rules.

33. *Section 11.21.* The Commission tentatively concludes that it should revise the language in § 11.21(a) of the Commission's rules 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 § 11.52 of the Commission's rules. The Commission seeks comment on this tentative conclusion.

34. With respect to the State Area EAS Plan requirements in § 11.21(a) of the Commission's rules, the Commission observes that this section does not specify that the obligation to process alert messages initiated by state governors only applies to CAP-formatted messages. The same omission also occurs in § 11.55(a) of the Commission's rules. Because these were inadvertent omissions, the Commission tentatively concludes that it should amend the text of both sections to make clear that they apply to CAP-formatted EAS messages. The Commission seeks comment on this tentative conclusion.

35. With respect to the FCC Mapbook content requirements in § 11.21(c) of the Commission's rules, the Commission seeks comment on whether and, if so, how it should revise these requirements to identify federal and state CAP message origination and distribution. Also with respect to § 11.21(c) of the Commission's rules, the Commission seeks comment on 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.

36. *Section 11.31(a)(3).* In light of its tentative conclusion to require conversion of CAP-formatted messages into the existing EAS Protocol, the Commission seeks comment on whether there would be any utility to changing the language in § 11.31(a) of the Commission's rules to better reflect CAP's capabilities.

37. *Section 11.35(a).* The Commission tentatively concludes that it is unnecessary to include a CAP-receiving requirement in § 11.35(a) of the Commission's rules, and seeks comment on this tentative conclusion.

38. *Section 11.45.* The Commission seeks comment on whether it should make any revisions to § 11.45 of the Commission's rules to accommodate CAP-formatted messages.

39. *Section 11.51.* In light of its tentative conclusion that EAS Participants should only be required at this time to be capable of retrieving CAP-formatted Federal EAS alerts and converting them into SAME-compliant messages for transmission to the public, the Commission further tentatively concludes that there is no basis for adopting CSRIC's recommendation to revise the language in § 11.51 of the Commission's rules to state that equipment must be capable of transmitting (or ''rendering'') a CAP-compliant message to EAS. The Commission seeks comment on this tentative conclusion.

40. With respect to §§ 11.51(d), (g)(3), (h)(3), and (j)(2) of the Commission's rules, the Commission seeks comment on whether it should continue to use the SAME-based protocol codes as the baseline for deriving the visual EAS message requirements in § 11.51 of the Commission's rules.

41. *Section 11.54.* The Commission seeks comment on whether to adopt

CSRIC's recommendation to mandate that CAP-formatted messages be broadcast only if the scope of the alert is ''Public.'' To the extent that § 11.54(b)(1) of the Commission's rules is retained in the final rules that result from this proceeding, the Commission seeks comment regarding whether it should revise the language to reflect federal CAP monitoring obligations by adding a cross-reference to the monitoring requirements in § 11.52 of the Commission's rules or otherwise revise this section of the rules.

C. EAS Equipment Certification

42. The Commission seeks comment on whether and how it should incorporate compliance with respect to CAP functionality into the Commission's existing certification scheme. The Commission observes that there appears to be two CAP-related standards with which conformance could be certified: (i) CAP v1.2 USA IPAWS Profile v1.0; and (ii) the ECIG Implementation Guide. Because the primary users of the CAP v1.2 USA IPAWS Profile v1.0 standard are CAP-based alert message originators, as opposed to EAS Participants, and because under the Commission's tentative conclusion to maintain a SAME-only output for the EAS, the Part 11 rules would not cover CAP message originating equipment, the Commission 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. The Commission seeks comment on this tentative conclusion.

43. With respect to the ECIG Implementation Guide, the Commission asks whether it would be appropriate for it to certify conformance with this document, and if so, whether and how it should implement conformance testing to demonstrate compliance with the ECIG Implementation Guide. Regardless of whether compliance with the ECIG Implementation Guide is adopted as a component of FCC certification, the Commission 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.

44. The Commission also seeks comment on whether it should classify intermediary devices stand-alone devices, as opposed to modifications to existing equipment, which would make them subject to the same certification requirements that apply to stand-alone decoders and encoders (*i.e.,* equipment that carries out all the functions required for an EAS Participant to meet its EAS obligations, including compliance with any applicable portions of the part 11 and part 15 rules, including compliance with ECIG Implementation Guide, if required). Finally, the Commission seeks comment on the certification requirements that should apply to modified EAS equipment.

D. 180-Day CAP Reception Deadline

45. The Commission seeks comment on whether the current September 30, 2011, deadline for CAP-compliance adopted in the *Waiver Order* is sufficient or whether the Commission should extend or modify it so it is triggered by some action other than FEMA's adoption of CAP, such as implementation by the Commission of revised certification rules.

E. CAP Messages Originated by State Governors

46. *Basic Obligation to Receive and Transmit Gubernatorial CAP Messages.* As a threshold matter, the Commission observes that, while its rules require EAS Participants to process gubernatorial CAP-formatted EAS messages, some measure of uniformity appears warranted to ensure that EAS equipment does not need to be designed to accommodate multiple variations of state CAP systems that might be deployed now or in the future. The Commission observes that the intent behind its CAP-related obligations has never been to require that EAS Participants deploy multiple variations of EAS equipment to meet their basic CAP-related obligations. The Commission observes that its efforts instead have been directed primarily towards implementing rules that will enable and obligate the processing of federal CAP-formatted alert messages over the existing EAS. Against this backdrop, the Commission sought to provide an incentive for state governors to similarly obtain mandatory processing of their CAP-formatted messages when (and only when) they deploy systems that are fully compatible with federal CAP systems.

47. Accordingly, the Commission 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. The Commission also observes that EAS Participants, working with state alerting authorities, may voluntarily deploy a state CAP message receiving capability that differs from the basic requirement to receive CAP messages formatted pursuant to the standards adopted by FEMA. The Commission seeks comment on this tentative conclusion.

48. The Commission also 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. The Commission observes that EAS Participants, working with state alerting authorities, may voluntarily implement a capability to translate CAP messages in a manner that differs from this basic requirement. The Commission also observes, however, a state must fully describe any state CAP system in a State Area EAS Plan submitted to the Commission for approval. The Commission seeks comment on this tentative conclusion.

49. *Gubernatorial CAP Message Originator and Event Codes.* The Commission seeks comment as to whether new origination and/or event codes are 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. The Commission also seeks comment on how adoption of new originator and/or event codes might impact the existing base of deployed EAS equipment.

50. *Geographic Application and Targeting of Gubernatorial CAP Messages.* The Commission seeks comment on whether it should revise the current obligation to process CAP-formatted messages delivered by the governor of the state in which the EAS Participant is located to include governors of any adjacent states in which the EAS Participant provides service.

51. With respect to geo-targeting, the Commission observes that under its tentative conclusion that, for the time being, CAP messages must be converted into SAME-compliant messages, the geo-targeting capabilities for state CAP-formatted messages will be defined by the geographic codes set forth in § 11.31(f) of the Commission's rules. Accordingly, the Commission 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. The Commission seeks comment on this tentative conclusion.

52. *Governor's ''Designee.''* The Commission observes that the obligation to process gubernatorial CAP messages currently only applies to CAP-formatted EAS messages initiated by a state governor (or the governor's designee), or by FEMA (or its designee) on behalf of a state. The Commission also observes that the question of whether local, county, tribal, or other state governmental entities should be allowed to serve as governor designees, thus initiating mandatory processing of gubernatorial CAP alerts, and how the Commission should decide which public officials should be permitted to activate such alerts, is still pending. The Commission indicated that pending a final resolution of this issue, local, county, tribal, or other state governmental entities will continue to be ineligible to serve as designees for purposes of initiating CAP-formatted messages on behalf of state governors. In the meantime, the Commission invites additional comment on this issue.

53. *Non-Participating National (NN) Sources.* The Commission seeks comment on whether the obligation to process CAP-formatted messages initiated by state governors should apply to NN stations. Alternatively, the Commission asks whether it should eliminate NN status altogether, in which case all EAS Participants would be required to transmit both the Presidential EAS messages and the CAP-formatted EAS messages initiated by state governors.

54. *Section 11.33(a)(9).* Although not raised by CSRIC or the parties responding to the *Part 11 Public Notice,* the Commission seeks comment as to whether it should revise § 11.33(a)(9) of the Commission's rules to accommodate gubernatorial CAP-formatted messages.

55. *Section 11.44.* Assuming that the Commission does not delete § 11.44 of the Commission's rules pursuant to its proposals aimed at streamlining the processing of EANs, it seeks comment on whether there is any practical need to revise § 11.44 of the Commission's rules to provide gubernatorial CAP-formatted messages with priority over local EAS messages and whether such a scheme is technically feasible.

56. *Section 11.51(m).* The Commission seeks comment on whether it should amend § 11.51(m) of the Commission's rules to incorporate the obligation to process CAP-formatted messages initiated by state governors. The Commission observes that this obligation does not apply unless and until a state specifies the methodology for delivering the gubernatorial CAP-formatted messages in the State Area EAS Plan that it submits to and is approved by the Commission. Accordingly, the Commission seeks comment as to how, assuming it were to adopt a new origination code for gubernatorial CAP-formatted messages, an EAS Participant's EAS equipment would know that the Commission had approved a state's State Area EAS Plan.

F. Revising the Procedures for Processing EANs

57. The part 11 rules specify that the EAT message is used to terminate an EAN. More specifically, as set out in § 11.13 of the Commission's rules, the EAN is the notice to EAS Participants that the EAS has been activated for a national emergency, while the EAT is the notice to EAS Participants that the EAN has terminated. This relationship is described in § 11.54 of the Commission's rules, which specifies the actions an EAS Participant must take upon receiving an EAN. Under these provisions, the EAN commences a ''National Level emergency'' condition, during which EAS Participants must discontinue regular programming, make certain announcements set forth in the EAS Operating Handbook, and broadcast a ''common emergency message,'' as prioritized under § 11.44 of the Commission's rules. EAS Participants are required to follow this process until receipt of the EAT.

58. The Commission seeks comment on whether the procedures set forth in § 11.54 of the Commission's rules for processing EATs and, more broadly, EANs, are problematic and technically impractical for automated operation. More specifically, the Commission seeks comment regarding whether it should substantially simplify the procedures for processing EANs set forth in § 11.54 of the Commission's rules and related Part 11 rule sections so that EAS Participants process EANs on a message-by-message basis, like any other EAS message, only on a mandatory and priority basis. Under this streamlined EAN processing approach, whether EAS Participants operate their EAS equipment in automated or manual mode, receipt of an EAN would effectively open an audio channel between the originating source and the EAS Participant's facilities until the EAS Participant receives an EOM. After the EAS Participant receives the EOM, the EAS equipment would return to regular programming until receipt of the next EAS message. If that message is another EAN, then the process would repeat; if that message is a state or local EAS message, including a gubernatorial CAP-formatted message, then that message would be aired in accordance with the specifications in the State and/or Local Area EAS Plan.

59. The Commission also invites comment on whether it should eliminate the option for EAS Participants to manually process EANs (but not state or local EAS messages).

60. Because the EAT would appear to serve no purpose when there is streamlined, message-by-message processing of EANs, the Commission also seeks comment on whether it should eliminate the EAT and replace it where necessary with the EOM in the Part 11 rules.

61. *Revising Section 11.54.* The Commission seeks comment on whether it should delete §§ 11.54(b)(1), (b)(3), (b)(4), (b)(10), and 11.54(c) of the Commission's rules.

62. *Deleting Section 11.42.* The Commission seeks comment on whether § 11.42 of the Commission's rules has become superfluous and should therefore be deleted.

63. *Elminating the EAS Operating Handbook.* The Commission observes that the EAS Operating Handbook may not serve any purpose with respect to the streamlined processing of EANs it now proposes. Accordingly, assuming that the Commission adopts message-by-message processing of EANs, it seeks comment on whether it should eliminate the EAS Operating Handbook and, if so, whether it should require EAS Participants to maintain within their facilities a copy of the current, FCC-filed and approved versions of the State and Local Area EAS Plans.

64. The Commission also seeks comment on whether, if it were to delete the EAS Operating Handbook, it should also delete §§ 11.54(a), (b)(2), and (b)(5) through (b)(8) of the Commission's rules.

65. *Deleting Section 11.44.* The Commission observes that if it were to revise § 11.54 of the Commission's rules to reflect a streamlined, message-by-message processing approach, § 11.44 of the Commission's rules would become superfluous. Accordingly, the Commission seeks comment on whether, if it were to adopt streamlined processing of EANs, it should delete § 11.44 of the Commission's rules.

66. *Revising Section 11.53.* The Commission seeks comment on whether § 11.53 of the Commission's rules has any relevance in the streamlined EAN processing model now being proposed. To the extent § 11.53 of the Commission's rules is relevant in its own right and should be retained, the Commission seeks comment on whether it should be revised to incorporate CAP-formatted EAN messages. The Commission observes that, unlike PEP-

originated SAME-formatted EAN messages distributed over the air, under the monitoring approach tentatively proposed in this item, EAS Participants will obtain CAP-formatted EAN messages from the RSS feed(s) utilized by the IPAWS system for EAS distribution. Accordingly, the Commission seeks comment as to whether, if § 11.53 of the Commission's rules is retained, it should be revised to include a cross-reference to § 11.52 of the Commission's rules to capture the federal CAP-formatted EAN origination process. The Commission also seeks comment on whether the existing language on state EAN origination would be sufficient to capture CAP-formatted EANs originated by state CAP systems.

67. *Revising Section 11.11(a).* The Commission seeks comment on whether, if it were to streamline EAN processing, it should revise § 11.11(a) of the Commission's rules 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.

68. *Deleting Section 11.16.* The Commission seeks comment on whether it should delete § 11.16 and § 11.54(b)(12) of the Commission's rules.

G. Miscellaneous Part 11 Revisions Not Related to CAP

69. *Definitions.* The Commission seeks comment on whether it should revise the definition for LP–1 stations in § 11.2(b) of the Commission's rules to reflect that these stations can be a radio or TV station.

70. The Commission observes that because the PEP system definition in § 11.14 of the Commission's rules mirrors the definition in § 11.2(a) of the Commission's rules, it is superfluous. Accordingly, the Commission tentatively concludes that it should delete § 11.14 of the Commission's rules from the part 11 rules. The Commission seeks comment on this tentative conclusion. Also with respect to the PEP system definition in § 11.2(a) of the Commission's rules, the Commission seeks comment on whether it should revise the language in § 11.2(a) of the Commission's rules to delete numerical references reflecting the number of PEP stations and clarify that the PEP stations distribute the EAN, EAS national test messages, and other EAS messages in accordance with the EAS Protocol requirements in § 11.31 of the Commission's rules.

71. Although not raised by any commenter, the Commission seeks comment on whether it should delete § 11.13 of the Commission's rules and move the definition for the EAN currently in § 11.13 of the Commission's rules to § 11.2 of the Commission's rules.

72. *Geographic Codes.* The Commission tentatively concludes that it should change 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 §§ 11.31 and 11.34(d) of the Commission's rules to reflect 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. The Commission seeks comment on this tentative conclusion.

73. *Attention Signal.* Given the limited purpose of the Attention Signal in the EAS, the Commission seeks comment on whether it can delete most of the current provisions relating to the Attention Signal in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules in favor of the minimal standard currently set forth in the EAS Protocol (at § 11.31(a)(2) of the Commission's rules). Under this approach, any Attention Signal provisions in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules that remain relevant could be incorporated into § 11.31(a)(2) of the Commission's rules. Assuming it takes such action, the Commission seeks comment on which, if any, of the equipment-related Attention Signal requirements in §§ 11.32(a)(9) and 11.33(b) of the Commission's rules it should incorporate into § 11.31(a)(2) of the Commission's rules. The Commission also seeks comment on whether it should delete the Attention Signal from the part 11 rules altogether.

74. The Commission observes that, regardless of whether or how might proceed with modifying the Attention Signal requirements, § 11.12 of the Commission's rules is obsolete. Accordingly, the Commission tentatively concludes that it should delete § 11.12 of the Commission's rules from Part 11. The Commission seeks comment on this tentative conclusion.

75. *Section 11.33(a)(9).* Section 11.39(a)(9) of the Commission's rules allows EAS Participants to set their decoders to automatically reset to the monitoring state if the decoder does not receive an EOM for any given EAS message within a predetermined minimum time frame (not less than two minutes). This reset function does not apply to EANs. By definition, the reset activation in § 11.33(a)(9) of the Commission's rules applies only when the EOM for a given EAS message has not arrived within the specified time period. The Commission observes that transmitting an EOM is a minimum requirement for encoders, and that because there is no EOM associated with an EAS message that has been canceled via reset, there is no EOM for the encoder to transmit. Accordingly, the Commission observes that as the rules are currently constructed, the encoder should not transmit an EAS message that has been canceled via reset. The Commission seeks comment on whether it should amend the rules to make this clearer or whether it should allow encoders to air EAS messages that have been canceled via reset.

76. *Section 11.33(a)(3)(ii).* The Commission seeks comment on whether it should revise § 11.33(a)(3)(ii) of the Commission's rules by eliminating the requirement to delete messages upon expiration of their time periods, and thus allow EAS Participants to air alert messages after expiration of the effective time period set by the alert message originator.

77. *LPTV and LPFM.* The Commission observes that the analog and digital broadcast station equipment deployment table in § 11.11(a) of the Commission's rules incorrectly identifies ''LPFM'' in the column that is supposed to contain Class A TV and incorrectly identifies ''LPTV'' in the column that should contain ''LPFM.'' The Commission further observes that ''LPFM'' appears to have been inadvertently omitted from the test requirements in §§ 11.61(a)(1)(i) and 11.61(a)(2)(ii) of the Commission's rules during a prior proceeding. The Commission tentatively concludes that it should correct these clerical errors and seeks comment on this tentative conclusion.

78. *Training.* The Commission observes that it lacks the authority to raise or distribute funds for EAS-related purposes, and therefore tentatively concludes that it cannot provide training for state and local emergency managers. The Commission seeks comment on this tentative conclusion.

79. *Persons with Disabilities.* The Commission seeks comment on whether there is in CAP some functionality that would allow EAS Participants to broadcast the same information in the visual portion (*i.e.,* the text crawl) of an EAS alert as is contained within the audio portion (if any). The Commission also seeks comment on whether it is technically feasible for the existing EAS

system or EAS Participant facilities to broadcast anything in lieu of an audio message. The Commission further seeks comment on whether the equipment that EAS Participants will be employing to receive CAP-based EAS alerts can simultaneously accommodate both an audio and textual message that can be delivered over the EAS. The Commission also seeks comment on whether intermediary devices designed to translate CAP to SAME for current, pre-CAP EAS equipment will have the identical capability as ''all-in-one'' CAP EAS equipment in this regard. Finally, the Commission invites comment on the effectiveness of speech-to-text software and how EAS Participants might use it in a manner that neither delays nor inaccurately interprets an EAS alert message.

III. Procedural Matters

A. Ex Parte Presentations

80. This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

B. Comment Filing Procedures

81. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to this Third Further Notice of Proposed Rulemaking should refer to EB Docket No. 04–296. Comments may be filed: (1) Using the Commission's Electronic Comment Filing System (ECFS), (2) through the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the *Federal eRulemaking Portal: http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

• For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE. is permanently closed.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

C. Accessible Formats

82. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

D. Regulatory Flexibility Analysis

83. As required by the Regulatory Flexibility Act of 1980, see 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in the Supplementary Information section above. Written public comments are requested on the IRFA. These comments are subject to the same procedures and filing deadlines as comments filed in response to this Third Further Notice of Proposed Rulemaking as set forth above and must have a separate and distinct heading designating them as responses to the IRFA.

E. Paperwork Reduction Act Analysis

84. This document contains proposed or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

IV. Ordering Clauses

85. Accordingly, *It Is Ordered* that pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615, this Third Further Notice of Proposed Rulemaking IS *Adopted.*

86. *It Is Further Ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *Shall Send* a copy of this Third Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

87. *It Is Further Ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Third Further Notice of Proposed Rulemaking on or before July 20, 2011, and

interested parties may file reply comments on or before August 4, 2011.

List of Subjects in 47 CFR Part 11

Emergency alerting, Radio, Television.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 11 to read as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

2. Revise § 11.2 to read as follows:

§ 11.2 Definitions.

The definitions of terms used in part 11 are:

(a) *Emergency Action Notification (EAN).* The Emergency Action Notification is the notice to all EAS Participants and to the general public that the EAS has been activated for a national emergency.

(b) *Primary Entry Point (PEP) System.* The PEP system is a nationwide network of broadcast stations and other entities connected with government activation points. It is used to distribute EAS messages that are formatted in the EAS Protocol (specified in § 11.31), including the EAN and EAS national test messages. FEMA has designated some of the nation's largest radio broadcast stations as PEPs. The PEPs are designated to receive the Presidential alert from FEMA and distribute it to local stations.

(c) *Local Primary One (LP–1).* The LP–1 is a radio or TV station that acts as a key EAS monitoring source. Each LP–1 station must monitor its regional PEP station and a back-up source for Presidential messages.

(d) *EAS Participants.* Entities required under the Commission's rules to comply with EAS rules, *e.g.,* analog radio and television stations, and wired and wireless cable television systems, DBS, DTV, SDARS, digital cable and DAB, and wireline video systems.

(e) *Wireline Video System.* The system of a wireline common carrier used to provide video programming service.

(f) *Participating National (PN).* PN stations are broadcast stations that transmit EAS National, state, or local EAS messages to the public.

(g) *National Primary (NP).* Stations that are the primary entry point for Presidential messages delivered by FEMA. These stations are responsible for broadcasting a Presidential alert to the public and to State Primary stations within their broadcast range.

(h) *State Primary (SP).* Stations that are the entry point for State messages, which can originate from the Governor or a designated representative.

(i) *Intermediary Device.* An intermediary device is stand-alone equipment that acquires and decodes EAS messages formatted in the Common Alerting Protocol (CAP) in accordance with § 11.56, converts such CAP-formatted message into an EAS message (or data stream) that complies with the EAS Protocol (set forth in § 11.31), and inputs such EAS Protocol-compliant message (or data stream) into a separate EAS decoder, EAS encoder, or unit combining such decoder and encoder functions, for further processing in accordance with the EAS message processing rules in this part.

3. Amend § 11.11 by revising paragraphs (a) and (d) to read as follows:

§ 11.11 The Emergency Alert System (EAS).

(a) The EAS is composed of analog radio broadcast stations including AM, FM, and Low-power FM (LPFM) stations; digital audio broadcasting (DAB) stations, including digital AM, FM, and Low-power FM stations; Class A television (CA) and Low-power TV (LPTV) stations; digital television (DTV) broadcast stations, including digital CA and digital LPTV stations; analog cable systems; digital cable systems which are defined for purposes of this part only as the portion of a cable system that delivers channels in digital format to subscribers at the input of a Unidirectional Digital Cable Product or other navigation device; wireline video systems; wireless cable systems which may consist of Broadband Radio Service (BRS), or Educational Broadband Service (EBS) stations; DBS services, as defined in § 25.701(a) of this chapter (including certain Ku-band Fixed-Satellite Service Direct to Home providers); SDARS, as defined in § 25.201 of this chapter; 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. These entities are referred to collectively as EAS Participants in this part, and are subject to this part, except as otherwise provided herein. At a minimum EAS Participants must use a common EAS protocol, as defined in § 11.31, to send and receive emergency alerts, and comply with the requirements set forth in § 11.56, in accordance with the following tables:

(1) *Analog and digital broadcast station equipment deployment requirements.*

TABLE 1—ANALOG AND DIGITAL BROADCAST STATION EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	AM & FM	Digital AM & FM	Analog & digital FM class D	Analog & digital LPFM	DTV	Analog & digital class A TV	Analog & digital LPTV
EAS decoder [1]	Y	Y	Y	Y	Y	Y	Y
EAS encoder	Y	Y	N	N	Y	Y	N
Audio message	Y	Y	Y	Y	Y	Y	Y
Video message	N/A	N/A	N/A	N/A	Y	Y	Y

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

(2) *Analog cable systems.* Analog cable systems are subject to the requirements in Table 2 below. Analog cable systems serving fewer than 5,000 subscribers from a headend may either provide the National level EAS message on all programmed channels including the required testing, or comply with the requirements in Table 2.

TABLE 2—ANALOG CABLE SYSTEM EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	≥ 5,000 subscribers	< 5,000 subscribers
EAS decoder [1]	Y	Y
EAS encoder	Y	Y [2]
Audio and Video EAS Message on all channels	Y	N
Video interrupt and audio alert message on all channels; [3] Audio and Video EAS message on at least one channel	N	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.
[2] Analog cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message. [NOTE: Programmed channels do not include channels used for the transmission of data such as interactive games.]

(3) *Wireless cable systems (BRS/EBS stations).* Wireless cable systems are subject to the requirements in Table 3 below. Wireless cable systems serving fewer than 5,000 subscribers from a single transmission site must either provide the National level EAS message on all programmed channels including the required testing, or comply with the requirements in Table 3.

TABLE 3—WIRELESS CABLE SYSTEM EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	≥ 5,000 subscribers	< 5,000 subscribers
EAS decoder [1]	Y	Y
EAS encoder	Y	Y [2]
Audio and Video EAS Message on all channels [3]	Y	N
Video interrupt and audio alert message on all channels; [4] Audio and Video EAS message on at least one channel	N	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.
[2] Wireless cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] All wireless cable systems 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.
[4] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message. [NOTE: Programmed channels do not include channels used for the transmission of data services such as Internet.]

(4) *Digital cable systems and wireline video systems.* Digital cable systems and Wireline Video Systems must comply with the requirements in Table 4 below. Digital cable systems and Wireline Video Systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels including the required testing, or comply with the requirements in Table 4.

TABLE 4—DIGITAL CABLE SYSTEM AND WIRELINE VIDEO SYSTEM EQUIPMENT DEPLOYMENT REQUIREMENTS

EAS equipment requirement	≥ 5,000 subscribers	< 5,000 subscribers
EAS decoder [1]	Y	Y
EAS encoder	Y	Y [2]
Audio and Video EAS Message on all channels [3]	Y	N
Video interrupt and audio alert message on all channels; [4] Audio and Video EAS message on at least one channel	N	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 to decode and convert CAP-formatted messages into EAS Protocol-compliant messages by deploying an Intermediary Device.
[2] Digital cable systems and wireline video systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] All digital cable systems and wireline video systems 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.
[4] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message. [NOTE: Programmed channels do not include channels used for the transmission of data services such as Internet.]

SDARS AND DBS

EAS equipment requirement	SDARS	DBS
EAS decoder [1]	Y	Y
EAS encoder	Y	Y
Audio message on all channels [2]	Y	Y

SDARS AND DBS—Continued

EAS equipment requirement	SDARS	DBS
Video message on all channels [2]	N/A	Y

[1] EAS Participants may comply with the obligations set forth in § 11.56 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.

* * * * *

§ 11.12 [Removed]

4. Remove § 11.12.

§ 11.13 [Removed]

5. Remove § 11.13.

§ 11.14 [Removed]

6. Remove § 11.14.

§ 11.15 [Removed]

7. Remove § 11.15.

§ 11.16 [Removed]

8. Remove § 11.16.

9. Amend § 11.21 by revising paragraphs (a) and (b) to read 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)(2). 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 § 11.31 by revising paragraphs (c), (e) and (f) to read 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–JJJHHMM–LLLLLLLL-(one second pause)

[PREAMBLE]ZCZC–ORG–EEE–PSSCCC+TTTT–JJJHHMM–LLLLLLLL-(one second pause)

[PREAMBLE]ZCZC–ORG–EEE–PSSCCC+TTTT–JJJHHMM–LLLLLLLL-(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.

JJJHHMM—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 No.
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

	ANSI No.
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.

§ 11.32 [Amended]

11. In § 11.32, remove paragraph (a)(9).

12. Amend § 11.33 by revising paragraph (a) introductory text, removing paragraph (b), and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively, to read as follows:

§ 11.33 EAS Decoder.

(a) An EAS Decoder must at a minimum be capable of providing the EAS monitoring functions described in § 11.52, decoding EAS messages formatted in accordance with the EAS protocol described in § 11.31, and converting Common Alerting Protocol (CAP)-formatted EAS messages into EAS alert messages that comply with the EAS Protocol, in accordance with § 11.56(a)(2), with the exception that the CAP-related monitoring and conversion requirements set forth in §§ 11.52(d)(2) and 11.56(a)(2) can be satisfied via an Intermediary Device. An EAS Decoder also must be capable of the following minimum specifications:

* * * * *

13. Amend § 11.41 by revising paragraph (c) to read 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).

§ 11.42 [Removed]

14. Remove § 11.42.

§ 11.44 [Removed]

15. Remove § 11.44.

16. Amend § 11.51 by revising paragraphs (a), (c), (d), (i) and (j), and paragraph (m) introductory text to read 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 § 11.52 by revising paragraphs (a), (d), (e) introductory text, and (e)(2) to read as follows:

§ 11.52 EAS code and Attention Signal Monitoring requirements.

(a) EAS Participants must be capable of receiving the Attention Signal required by § 11.31(a)(2) 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.

* * * * *

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

(1) 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.

(2) With respect to monitoring EAS messages formatted in accordance with the specifications set forth in § 11.56(a)(2), EAS Participants must monitor the Really Simple Syndication, version 2.0, feed(s):

(i) 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

(ii) 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.

(3) 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.

(4) 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.

* * * * *

(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 must be programmed for the EAN Event header code and the RMT and RWT Event header codes (for required monthly and weekly tests), with the appropriate accompanying State and State/county location codes.

18. Revise § 11.54 to read 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 § 11.55 by revising paragraph (a) introductory text, adding paragraphs (a)(3) through (5) and revising paragraph (c) introductory text and paragraph (c)(4) to read 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:

* * * * *

(3) Acquiring, in accordance with the State EAS alert message monitoring requirements in § 11.52(d)(2), 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 OASIS Common Alerting Protocol Version 1.2 (July 1, 2010), and 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;

(4) 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

(5) 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 Sate 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.

* * * * *

(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:

* * * * *

(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. Revise § 11.56 to read 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:

(1) Acquiring EAS alert messages in accordance with the monitoring requirements in § 11.52(d)(2); and

(2) Converting EAS alert messages that have been formatted pursuant to the:

(i) Organization for the Advancement of Structured Information Standards (OASIS) Common Alerting Protocol Version 1.2 (July 1, 2010), and

(ii) 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 EAS–CAP Industry Group's (ECIG) Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010); and

(3) 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 § 11.61 by revising paragraphs (a) introductory text, (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) * * *

(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.

* * * * *

(2) * * *

(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).

* * * * *

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

[FR Doc. 2011–15119 Filed 6–17–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 11–100, RM–11632; DA 11–1034]

Television Broadcasting Services; Eau Claire, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Gray Television Licensee, LLC (''Gray''), the licensee of station WEAU–TV, channel 13, Eau Claire, Wisconsin, requesting the substitution of channel 38 for channel 13 at Eau Claire. The tower holding WEAU–TV's main antenna collapsed, destroying the station's transmission equipment, on March 22, 2011. Gray requests this channel substitution so that the station's reconstructed facility will resolve over-the air reception problems and improve the station's ability to provide service to viewers using hand-held and mobile devises in the future.

DATES: Comments must be filed on or before July 5, 2011, and reply comments on or before July 15, 2011.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Joan Stewart, Esq., Wiley Rein, LLP, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, *joyce.bernstein@fcc.gov*, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 11–100, adopted June 9, 2011, and released June 10, 2011. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Wisconsin is amended by removing channel 13 and adding channel 38 at Eau Claire.

[FR Doc. 2011–15286 Filed 6–17–11; 8:45 am]

BILLING CODE 6712–01–P