

# PUBLIC NOTICE

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## FCC ENFORCEMENT ADVISORY

### ENFORCEMENT BUREAU REMINDS EMERGENCY ALERT SYSTEM (EAS) PARTICIPANTS OF COMPLIANCE OBLIGATIONS

The Enforcement Bureau of the Federal Communications Commission (Commission or FCC) issues this Enforcement Advisory to remind broadcasters, cable television operators, wireless cable operators, wireline video service providers, satellite digital audio radio service providers, and direct broadcast satellite providers (EAS Participants)<sup>1</sup> of their obligation to comply with the EAS rules, including ensuring that EAS alerts are accessible to persons with disabilities.<sup>2</sup> In reporting on the most recent national level test of the EAS, the FCC's Public Safety and Homeland Security Bureau noted improvements in key areas, but identified several issues that impair dissemination of EAS messages.<sup>3</sup> The 2019 Nationwide EAS Test Report noted, for instance, that EAS Participants must ensure that messages comply with the FCC's requirements designed to make the message accessible to individuals with hearing and vision disabilities.<sup>4</sup> Below we highlight EAS Participants' obligations and identify measures to improve the dissemination and accessibility of EAS alerts.

#### The Emergency Alert System

The EAS is a national public warning system that enables the President to communicate via live audio transmission to the public during a national emergency.<sup>5</sup> EAS Participants must transmit Presidential messages during national emergencies and may transmit local messages, such as severe weather alerts and

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<sup>1</sup> See 47 CFR § 11.2(b) (defining EAS Participants). See also *id.* § 11.11(a) (further defining EAS Participants). Analog and digital class D non-commercial educational FM stations, analog and digital Low Power FM (LPFM) stations, and analog and digital Low Power TV (LPTV) stations are not required to have equipment capable of generating the EAS codes and Attention Signal specified in section 11.31 of the Commission's rules. 47 CFR § 11.31.

<sup>2</sup> See 47 CFR § 11.61(a)(3)(i),(iv) (requiring EAS Participants to participate in national tests and report their test results in the EAS Test Reporting System, respectively). See also 47 CFR § 11.51 (specifying the requirements for the audio and visual components of the EAS message).

<sup>3</sup> FCC, Public Safety and Homeland Security Bureau, Report: August 7, 2019 Nationwide EAS Test (2020).

<sup>4</sup> *Id.* at 20.

<sup>5</sup> See *Review of the Emergency Alert System*, Second Further Notice of Proposed Rulemaking, 25 FCC Rcd 564, 565, para. 2 (2010). See also 2019 Nationwide EAS Test Report at 3-4 (providing historical context and statutory basis for the EAS).

AMBER (America's Missing: Broadcast Emergency Response) alerts.<sup>6</sup> The Integrated Public Alert Warning System Modernization Act of 2015 requires the Federal Emergency Management Agency (FEMA) to conduct a national level EAS test at least once every three years.<sup>7</sup> For each of these tests, the FCC requires EAS Participants to transmit the message, comply with the FCC's audio and visual requirements, and submit test results to the EAS Test Reporting System (Reporting System) database. The Commission evaluates the test results to determine whether the alerts comply with Commission rules, including whether the alerts were distributed nationally and whether they were accessible to persons with disabilities. The test results also identify whether EAS Participants need to make adjustments to enhance the reliability and reach of their alerts.

### **What steps can EAS Participants take to improve their participation in EAS and ensure compliance with the FCC's rules?**

The EAS rules are in sections 11.1 through 11.61 of the Commission's rules.<sup>8</sup> Key requirements include:

- ***EAS Participants must ensure that their EAS equipment's monitoring and transmitting functions are available whenever the stations and systems are operating.*** An EAS participant's failure to receive or transmit an EAS message during a national test or actual emergency because of an equipment failure may subject the EAS Participant to enforcement.<sup>9</sup>
  - To ensure the availability of these functions, EAS Participants should take steps to secure their EAS equipment. For example, EAS Participants should upgrade EAS equipment software and firmware to the most recent version recommended by the equipment manufacturer and update with current security patches. Participants should also change default passwords, secure EAS equipment behind properly configured firewalls, and take other protective measures.
  - EAS Participants should synchronize EAS equipment clocks to the official time provided by the National Institute of Standards and Technology if the equipment does not automatically synchronize to an Internet time source.
- ***EAS Participants must transmit national level EAS messages, required monthly tests, and required weekly tests.***<sup>10</sup> An EAS Participant's failure to transmit an EAS message during a national test or actual emergency, e.g., based on the configuration of its equipment, lack of redundant monitoring sources, or an accurate understanding of its role as an EAS participant, may subject the EAS Participant to enforcement.
  - EAS Participants must understand and identify their role (or "designation") in the broadcast-based distribution architecture of the EAS. Most EAS Participants have only the "participating national" designation. Section 11.18(a)-(g) contains a list of designations and state EAS plans that Participants can use to confirm whether any other designations are applicable.<sup>11</sup> Participants must know a facility's EAS designation to accurately complete the Reporting System's Form One.

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<sup>6</sup> 47 CFR §§ 11.1, 11.51, 11.54, 11.55.

<sup>7</sup> 6 U.S.C. § 321o.

<sup>8</sup> See 47 CFR pt. 11.

<sup>9</sup> 47 CFR § 11.35.

<sup>10</sup> 47 CFR §§ 11.51, 11.61.

<sup>11</sup> 47 CFR § 11.18(a)-(g).

- EAS Participants must monitor multiple sources to ensure redundancy and reduce the possibility of message receipt failures.<sup>12</sup> EAS Participants should ensure that monitoring sources are independent and do not rely on each other to receive or transmit an EAS message.
- EAS Participants should follow-up with monitored sources when an EAS message is not received to determine the cause. For example, such issues could be caused by a transmission or reception issue that can be readily corrected. An EAS Participant is required to determine the cause of its failure to receive an EAS message during a national test or emergency.<sup>13</sup>
- ***EAS Participants must ensure that an EAS message is accessible.***<sup>14</sup>
  - For the visual portion of the message, the text must be displayed:
    - At the top of the television screen or where it will not interfere with other visual messages (*e.g.*, closed captioning);
    - In a manner (*i.e.*, font size, color, contrast, location, and speed) that is readily readable and understandable;
    - Without overlapping lines or extending beyond the viewable display (except for video crawls that intentionally scroll on and off the screen); and
    - In full at least once during any EAS message.
  - For the audio portion of the message, broadcast stations, cable systems, and direct broadcast satellite services must play the audio portion of an EAS message in full at least once to ensure it is accessible to viewers who are blind or have low vision.
- ***EAS Participants must submit their national test results to the FCC in the Reporting System.***<sup>15</sup>

An EAS Participant may be subject to enforcement if it fails to participate in a national test or submits incomplete or inaccurate information to the Commission in its Reporting System filings.

  - EAS Participants must update their Reporting System Form One submissions yearly.<sup>16</sup> Because the Form One will auto-populate with information from the EAS Participant's previous Form One filing, EAS Participants should review the Form before submission to be sure it is current and accurate.
  - EAS Participants are required to participate in national tests and required to file information related to national tests in the Reporting System.
  - The accuracy of Reporting System filings is critical. If an EAS Participant receives or retransmits a partial EAS message, *e.g.*, if the audio is missing in the data received and/or retransmitted, the EAS Participant is responsible for ensuring that its Reporting System filing reflects this issue and the reason it failed to receive the full message.

### **How does the EAS Participant receive a national level EAS message?**

National EAS messages can be delivered through the Integrated Public Alert and Warning System and/or the broadcast-based distribution system. EAS Participants are required to monitor the FEMA-administered Integrated Public Alert and Warning System platform for EAS messages that are written in

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<sup>12</sup> 47 CFR § 11.52(d)(1)-(2).

<sup>13</sup> 47 CFR § 11.35(a).

<sup>14</sup> 47 CFR § 11.51.

<sup>15</sup> 47 CFR § 11.61.

<sup>16</sup> 47 CFR § 11.61(a)(3)(iv)(A).

the Common Alerting Protocol.<sup>17</sup> Common Alerting Protocol-formatted alerts initiated through the Integrated Public Alert and Warning System can include audio, video or data files, images, non-English translations of alerts, and links providing detailed information. EAS Participants that need assistance in configuring their equipment to monitor the Integrated Public Alert and Warning System should contact their equipment's manufacturer.

Under the broadcast-based distribution method, FEMA transmits the EAS message to a pre-established hierarchy of broadcast, cable, and satellite systems, which in turn transmit the message to other media outlets or audiences, as designated in a state EAS plan. Under this method, each EAS Participant must monitor at least two broadcast monitoring sources assigned by the EAS Participant's state EAS plan.<sup>18</sup> EAS Participants should consult their approved state EAS plans for their complete list of EAS monitoring assignments.

### **Which filings must EAS Participants submit for national level EAS tests?**

The Commission announces each upcoming national test through a public notice. The public notice is typically released at least two months before the national test, and is published on the Commission's website. The public notice will contain instructions on how and when to file in the Reporting System.<sup>19</sup> EAS Participants must participate in the national test and file day-of test data and post-test data with the Commission using the Reporting System.<sup>20</sup> Even if there is no test, EAS Participants must renew certain identifying information annually with the FCC in the Reporting System.<sup>21</sup>

### **What are the consequences for violating the Commission's requirements?**

Failure to comply with the EAS rules may subject a violator to sanctions including, but not limited to, substantial monetary forfeitures.<sup>22</sup> The Enforcement Bureau may treat each failure to either transmit EAS messages, file EAS test information in the Reporting System, or file accurate information in the Reporting System as a separate violation for purposes of calculating the proposed forfeiture amount.<sup>23</sup>

### **What should consumers do if they do not receive an EAS alert or a transmitted message is not accessible?**

The Commission encourages the public to provide the FCC with detailed feedback on EAS tests and alerts, including any accessibility concerns. Feedback should include the date and time of the EAS alert, the station over which the message was broadcast, whether the alert was viewed on cable, satellite or broadcast, the name of the provider, and any concerns regarding the test or alert. This information will

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<sup>17</sup> 47 CFR § 11.52(d)(2).

<sup>18</sup> 47 CFR § 11.52(d)(1).

<sup>19</sup> 47 CFR § 11.61(a)(3)(iii).

<sup>20</sup> 47 CFR § 11.61(a)(3)(B)-(C).

<sup>21</sup> 47 CFR § 11.61(a)(3)(A). There was not a national EAS test in 2020, and thus the FCC has waived the requirement that EAS Participants file the identifying information sought by Reporting System Form One for 2020. *See Improving Wireless Emergency Alerts and Community-Initiated Alerting; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Order, 35 FCC Rcd 6765 (PSHSB 2020).

<sup>22</sup> *See, e.g., Viacom, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 2548, 2566, para. 38 (2014), *aff'd sub nom. Viacom Inc. ESPN Inc.*, Forfeiture Order, 30 FCC Rcd 797, 797-98, paras. 1, 4 (2015) (*Viacom Forfeiture Order*) (assessing monetary forfeitures of \$1,120,000 against Viacom Inc. and \$280,000 against ESPN Inc., respectively, for violations of the Commission's laws that prohibit misuse of tones reserved for the EAS).

<sup>23</sup> *See Viacom Forfeiture Order*, 30 FCC Rcd at 806-07, para. 24 (treating each transmission of false EAS tones contained in a movie trailer as a separate violation rather than a single, ongoing violation).

enhance the Commission's ability to work with EAS Participants to resolve and prevent issues during subsequent tests or an actual emergency. Consumers may provide the FCC with feedback by contacting the Public Safety Support Center at [fcc.gov/general/public-safety-support-center](https://www.fcc.gov/general/public-safety-support-center), or filing a complaint with the FCC through the consumer complaint portal at [consumercomplaints.fcc.gov/hc/en-us](https://consumercomplaints.fcc.gov/hc/en-us). Consumers may also direct accessibility related questions to the FCC's Disability Rights Office at [dro@fcc.gov](mailto:dro@fcc.gov), 202-418-2517 (voice), or 1-844-432-2275 (videophone).

### **Need more information?**

Media inquiries should be directed to Will Wiquist of the Office of Media Relations at: (202) 418-0509, or by e-mail, at: [Will.Wiquist@fcc.gov](mailto:Will.Wiquist@fcc.gov). Questions about EAS Participants' obligations should be directed to Maureen Bizhko of the Public Safety and Homeland Security Bureau at: (202) 418-0011, or by e-mail, at: [Maureen.Bizhko@fcc.gov](mailto:Maureen.Bizhko@fcc.gov). Questions about EAS accessibility should be directed to Debra Patkin of the Consumer and Governmental Affairs Bureau at: (202) 870-5226, or by e-mail, at: [Debra.Patkin@fcc.gov](mailto:Debra.Patkin@fcc.gov). Questions about EAS enforcement matters should be directed to Phillip Priesman of the Enforcement Bureau at: (202) 418-1582, or by e-mail, at: [Phillip.Priesman@fcc.gov](mailto:Phillip.Priesman@fcc.gov). For additional information regarding use of the Emergency Alert System, please visit: [fcc.gov/general/emergency-alert-system-eas-0](https://www.fcc.gov/general/emergency-alert-system-eas-0). To learn more about the Commission's accessibility requirements for EAS, please visit: [fcc.gov/eas-faq-accessibility](https://www.fcc.gov/eas-faq-accessibility). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, or audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

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