

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

| | | |
|--|---|----------------------|
| In the Matter of |) | |
| |) | |
| Review of the Emergency Alert System; |) | EB Docket No. 04-296 |
| |) | |
| Independent Spanish Broadcasters Association, |) | |
| The Office of Communication of the United |) | |
| Church of Christ, Inc., and the Minority Media |) | |
| and Telecommunications Council, Petition for |) | |
| Immediate Relief |) | |
| |) | |
| Randy Gehman Petition for Rulemaking |) | |

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

Kelly Williams
Senior Director
Engineering and Technology Policy
NAB Science & Technology

Jane E. Mago
Jerianne Timmerman
Ann West Bobeck
Larry Walke
NATIONAL ASSOCIATION OF BROADCASTERS
1771 N Street N.W.
Washington, D.C. 20036
(202) 429-5430

July 20, 2011

SUMMARY

The National Association of Broadcasters (NAB) supports the Commission's ongoing efforts to upgrade the nation's public warning systems, and in particular, the Emergency Alert System (EAS). For over six decades, broadcasters have taken pride in their role as the backbone of EAS. Together with live, on-the-spot news coverage providing in-depth emergency information, broadcasters play a unique role in helping to safeguard the American public, even when other communications platforms fail. Recent events, such as the deadly tornados in Alabama and Missouri, and flooding in North Dakota and elsewhere, have repeatedly demonstrated the critical, live-saving role of broadcasters as "first informers" during natural disasters and other emergencies.

NAB supports the Commission's overall approach in this proceeding. We agree with the Commission's proposal to adopt a transitional approach in which the existing EAS is retained for the foreseeable future, while the next generation, digital Common Alerting Protocol (CAP)-based EAS is implemented as a parallel mechanism. The Commission proposes that, for the time being, EAS Participants will only be required to accept CAP-formatted EAS messages, and then translate such messages into the existing Specific Area Message Encoding (SAME) format for rebroadcast through the EAS chain and out to the public. Among other benefits, this approach will provide for a reliable, redundant EAS avenue while the next generation of EAS is implemented. It also reflects the fact that the National Weather Service (NWS), and many state and local authorities, which issue the vast majority of EAS alerts, have no immediate plans to initiate CAP-formatted EAS messages.

In general, NAB urges the Commission to adopt flexible Part 11 rules. For example, the rules should accommodate continuing technological advances in EAS monitoring methods. In addition, we request that the Commission rely on the EAS equipment conformance testing process already established by the Federal Emergency Management Agency (FEMA), and take into account the fact that CAP-compliant equipment has been available on the market for approximately two years. Many broadcast EAS Participants have already purchased and installed this equipment. NAB submits that any changes to the Part 11 rules should not cause this equipment in the field now to be deemed non-compliant. Similarly, we believe that the revised Part 11 rules should not dictate EAS terms and conditions for state-level EAS systems, given that approximately 18 states already have systems capable of distributing IP-based CAP EAS messages, with several others close to introducing their own CAP-based systems.

With regard to state-level EAS messages, NAB respectfully reiterates our concern with the delegation of mandatory EAS activations below the gubernatorial level. We continue to believe that only the governor or his/her single designee, as specified in a Commission-approved State EAS Plan, should be permitted to issue an EAS alert. Granting the power to issue an EAS alert to multiple state officials could lead to unnecessary alerts, public confusion, and possibly public desensitization if multiple alerts are triggered for the same event.

Finally, NAB requests that the deadline for when EAS Participants must be able to accept CAP-formatted EAS messages should be further extended by 180 days, following the effective date of the rules adopted in this proceeding. The current

deadline of September 30, 2011, will not allow broadcasters sufficient time to consider the rules ultimately adopted in this proceeding in their decisions to identify and purchase EAS equipment that best suits their particular needs. There is also the continuing uncertainty as to whether the Commission will implement its own equipment certification testing program, separate from FEMA's conformance testing, or whether the Commission may revise any Part 11 rules in a way that requires manufacturers to alter their design specifications, or perhaps even require EAS Participants already in possession of installed EAS equipment to refurbish their equipment in some way. It is also appropriate to extend the CAP-compliance deadline for EAS Participants given that the large majority of EAS message originators (*e.g.*, NWS, state and local authorities) will not be prepared to send a CAP-enabled message for the foreseeable future

TABLE OF CONTENTS

Summary

| | | |
|------|--|----|
| I. | Introduction | 1 |
| II. | Deferral of Issues Related to a Next Generation EAS is Appropriate..... | 6 |
| III. | The Commission Should Adopt a Practical Regulatory Scheme That Reflects Industry Consensus For CAP-Formatted Messages..... | 8 |
| | A. NAB Strongly Supports the Use of the ECIG Guide For Accepting and Translating CAP Messages | 8 |
| | B. The Commission Need Not Specify Audio Encoding of CAP-Formatted Messages In Its Rules Because Equipment Manufacturers Will Follow ECIG Performance Guidelines | 11 |
| | C. The Commission Should Not Be Overly Prescriptive As to Monitoring CAP Sources | 13 |
| | D. The Commission Should Consider A Notification Process For Those Stations Without Reliable Internet Access | 15 |
| | E. The Use of Intermediary Devices Is A Cost-Effective Option Which Satisfies an EAS participant’s CAP Obligation And Is Already Deployed in the Market..... | 16 |
| | F. The Commission Should Encourage Flexibility For The EAS Equipment Marketplace | 18 |

TABLE OF CONTENTS (cont'd)

G. The Architecture of State EAS Networks and Monitoring of State-Level CAP Should Be Addressed in State EAS Plans..... 19

H. The Commission Should Allow The Public to Receive Enhanced Emergency Video Crawl Information..... 20

I. The Commission Should Not Eliminate the EAS Operating Handbook..... 21

IV. The Commission Should Recognize FEMA’s Equipment Conformance Testing 23

V. The Commission Should Extend the Deadline for Accepting CAP-Formatted EAS Messages..... 25

VI. The Commission Should Clarify EAS Participants’ Obligations to Process CAP-Compliant Gubernatorial EAS Messages 28

VII. Conclusion..... 30

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

| | | |
|---|---|----------------------|
| In the Matter of |) | |
| |) | |
| Review of the Emergency Alert System; |) | EB Docket No. 04-296 |
| |) | |
| Independent Spanish Broadcasters Association, |) | |
| The Office of Communication of the United |) | |
| Church of Christ, Inc., and of Minority Media |) | |
| and Telecommunications Council, Petition for |) | |
| Immediate Relief |) | |
| |) | |
| Randy Gehman Petition for Rulemaking |) | |

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

I. Introduction.

Pursuant to Sections 1.415 and 1.419 of the Commission’s rules,¹ the National Association of Broadcasters (NAB)² submits comments on the above-captioned Third Further Notice of Proposed Rulemaking.³ NAB supports the Commission’s efforts to modernize public warning systems, and appreciate the Commission’s continuing recognition of broadcasters as the backbone of the Emergency Alert System (EAS). For over six decades, broadcasters have proudly partnered with our government, and consistently demonstrated their unique role as “first informers” of the American public in times of crisis.

¹ 47 C.F.R. §§ 1.415, 1.419.

² NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

³ Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, Randy Gehman Petition for Rulemaking, *Third Further Notice of Proposed Rulemaking*, EB Docket No. 04-296 (*rel.* May 26, 2011) (“Third Further Notice” or “Notice”).

The ability of television and radio broadcasters to reach virtually all Americans – especially when other communications platforms fail – gives local stations an indispensable role in the distribution of emergency information. Together with live, on-the-spot news coverage providing in-depth emergency information, a modern, reliable EAS is a critical component of broadcasters’ efforts to safeguard their audiences and communities. EAS enables the President to communicate with the public during emergencies, and is also an important public alert and warning tool of state and local governments. These alerts often include weather alerts, many of which are issued by the National Weather Service (NWS), AMBER alerts⁴ and other important disaster information such as evacuation notices.⁵

Recent events have highlighted the need for a robust, dependable system for disseminating emergency information during natural and other disasters. During the deadly tornado outbreak in Alabama in April of this year, radio and television broadcasters played a vital role in providing advance warning to the public. Broadcasters’ forecasting resources enabled them to warn citizens in the Birmingham area to stay home from school and work that day, potentially saving hundreds of lives.⁶

⁴ AMBER: America’s Missing: Broadcasting Emergency Response Alerts. Since 1996 AMBER alerts have helped safely recover more than 540 abducted children. See http://www.missingkids.com/missingkids/servlet/PageServlet?LanguageCountry=en_US&PageId=2810#2 (last visited July 20, 2011).

⁵ Approximately 90 percent of all EAS messages are weather alerts from the NWS, such as weather warnings and watches. U.S. Government Accountability Office, *Emergency Preparedness, Improved Planning and Coordination Necessary for Modernization and Integration of Public Alert and Warning System*, Report to the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, GAO-09-834, September 2009 (GAO EAS/IPAWS Report) at 6.

⁶ Mike Oliver, *Day of Devastation in Alabama: At Least 128 Killed by Storms*, The Birmingham News (Apr. 28, 2011).

Television broadcasters were even able to show pictures of a powerful tornado approaching Tuscaloosa and Birmingham not just on Doppler radio, as most viewers have come to expect, but also actual live pictures of the tornado on the horizon. As one veteran broadcaster aptly noted, viewing video of a live tornado encourages people to react more urgently.⁷

A subsequent survey conducted of Alabama residents impacted by the tornados reported that 71% of adults received early warning of the tornados by watching television.⁸ An additional 10% of those surveyed learned of the tornados via radio. A mere 6% of respondents learned of the tornados through Internet, smartphones, or Twitter/Facebook.⁹

Similarly, prior to tornados striking Joplin, Missouri in May, radio station KZRG began wall-to-wall coverage to alert residents about the storm an hour and a half before the twister touched down.¹⁰ When Internet, mobile and landline connections were unreliable following the tornado, Zimmer Radio, owner of KZRG, broadcast a single feed of continuous disaster coverage on six radio stations.¹¹ Crews drove to the station immediately after the tornado in order to provide information on medical help, the missing, and where residents could buy gas and groceries.¹²

⁷ Brian Stelter, *Rare Footage Indeed: Tornadoes, in Real Time*, The New York Times (Apr. 28, 2011).

⁸ *Alabama Tornado Survey*, Billy McDowell, VP of Media Research RAYCOM Media, May 2011.

⁹ *Id.*

¹⁰ Moni Basu, "Radio Stations Chug Along 24/7 in Tornado-devastated Joplin" May 24, 2011, CNN, available at http://articles.cnn.com/2011-05-24/us/missouri.tornado.radio_1_radio-stations-killer-tornado-deadly-tornado?_s=PM:US

¹¹ *Id.*

¹² *Id.*

A month after the Joplin tornado, flooding in Minot, North Dakota, sent hundreds fleeing from their homes. Residents turned to local broadcast television stations for current information. One station, KXMC, replayed coverage of the floods over and over at the request of residents who wanted to see the condition of their own neighborhoods. And as *The New York Times* reported, when the station “has not been showing viewers their submerged homes, it has been broadcasting news conferences, explaining the intricacies of dike construction and sharing viewer photos from around the town.”¹³

Digital technology enables local television stations to offer hyper-local weather alerts and information on multicast channels. They are also in the process of rolling out innovative mobile DTV services, which will enable viewers to receive live, local broadcast television programming—including local news, weather, and emergency information—on an “on the go” basis on mobile-DTV capable devices such as smart phones, laptop computers and tablets. Over 70 stations have commenced offering mobile DTV service, and hundreds of stations across the country have announced plans to continue the nationwide roll-out of mobile DTV in the near-term. Like traditional radio and television broadcasting, mobile DTV is a reliable and spectrally efficient (one-to-many) means of disseminating emergency information to viewers.

The potential of mobile DTV during emergencies was shown following the devastating earthquake and tsunami in Japan in March. Residents reported that the country’s mobile television service was a lifeline source of information, particularly in the

¹³ Brian Stelter, “This Just In: How Your House Is Fairing,” *The New York Times* (June 27, 2011).

wake of cellular network and power outages.¹⁴ More than half of the nation's cell phone towers went down, and cellular networks were hopelessly clogged. Fortunately, mobile DTV enabled Japanese citizens to watch live coverage of the tsunami and earthquake on their mobile phones, and receive critical life-saving information like evacuation routes. Unlike wireless services, broadcast services including mobile DTV are unaffected by network congestion because broadcasting scales in a one-to-many manner. Wireless networks simply cannot handle a situation where thousands of individuals are trying to stream video or make calls in the same area at the same time.¹⁵ Clearly, a major benefit of broadcasters' efforts to expand the reach of mobile DTV service will be increased public access to emergency warnings and information.¹⁶

Broadcasters value their partnership with the Commission and other government agencies in the provision of life-saving warnings and emergency information to the public, and appreciate the opportunity to comment here on the Commission's continuing efforts to improve the EAS. As discussed below, NAB supports the Commission's overall approach in the Third Further Notice,¹⁷ including many of the tentative conclusions set forth in the Notice. We also offer our views on certain questions raised

¹⁴ See, e.g., Michael Plugh, "What I Left Behind In Japan," *Salon.com* (March 22, 2011), available at

http://www.salon.com/life/feature/2011/03/22/japan_i_left_behind/index.html. See also Live Blog: Japan Earthquake, *The Wall Street Journal* (March 11, 2011, 8:06 a.m. posting of Chester Dawson) ("Unable to use cell phones, many used their smartphones to tune into television broadcasts and find out what had happened. 'It's very convenient being able to watch live TV when the phones are down,' said Minoru Naito, an employee of Royal Bank of Scotland in Tokyo. 'Otherwise, we'd have no idea what is going on.'").

¹⁵ Craig Johnson, *Mobile DTV Aids in Times of Disaster*, TV Technology (May 18, 2011) available at <http://www.tvtechnology.com/article/120684>.

¹⁶ Similarly, expanding the availability of radio-enabled mobile phones will enhance public access to EAS alerts and crucial emergency-related information provided by radio broadcasters.

¹⁷ Third Further Notice at ¶¶ 24-29.

in the Third Further Notice regarding how (and when) EAS Participants must implement the Common Alerting Protocol (CAP) and monitor federal and state-level EAS sources,¹⁸ as well as other technical issues related to the certification and capabilities of CAP-compliant EAS devices.

II. Deferral of Issues Related to a Next Generation EAS Is Appropriate.

The Commission proposes a transitional approach in which the existing legacy EAS is retained for the foreseeable future, while a digital CAP-based EAS is implemented as a parallel mechanism.¹⁹ The Commission cited several reasons for adopting this approach, including: (1) the familiarity of EAS Participants' with the existing EAS system; (2) the attendant risks of abruptly switching to a new system that is not yet fully deployed or tested;²⁰ and (3) the Federal Emergency Management Agency's (FEMA) very recent adoption of technical standards for CAP-formatted EAS alerts that will facilitate the full implementation of an all-digital "Next Generation EAS" based solely on CAP.²¹ Accordingly, the Commission proposes to limit the scope of the Third Further Notice to issues relevant to this transitional approach, and defer consideration of issues related to the Next Generation EAS to an upcoming Notice of Inquiry on Broadband Alerting. Third Further Notice at ¶¶ 27-28.

¹⁸ EAS Participants include AM, FM and television broadcast stations, cable systems, wireless cable systems, Direct Broadcast Satellite systems, Satellite Digital Audio Radio Services, and others. 47 C.F.R. § 11.1.

¹⁹ Third Further Notice at ¶ 24; see also Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief, *Second Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 13275,13283-84 (2007) ("Second Report and Order").

²⁰ Second Report and Order, 22 FCC Rcd at 13283.

²¹ Third Further Notice at ¶ 27 citing FEMA, *FEMA Announces Adoption of New Standard for Emergency Alerts*, Release Number: HQ-10-192 (*rel.* Sept. 30, 2010).

NAB supports the Commission's proposed approach. First, in addition to the above-identified reasons, which remain valid, FEMA has only recently finalized its intent to include the existing EAS system as a continuing part of the Integrated Public Alert and Warning System (IPAWS). Second, there is definite value in retaining the current "daisy-chain"²² EAS distribution system as a proven, redundant method of delivering public alerts. Relying on only one avenue during an emergency, such as FEMA's IP-based Really Simple Syndication (RSS) feeds, may not always suffice during disasters, particularly large-scale situations.²³ Third, it seems likely that neither the NWS nor many state and local emergency operations managers, which issue the vast majority of EAS alerts, have any immediate plans to initiate CAP-formatted EAS alerts. And it may be some time before state and local emergency operations managers even "understand CAP and its advantages."²⁴

Indeed, requiring all broadcasters, particularly smaller radio and television stations and those in small markets, to discontinue the legacy EAS system in the near

²² Part of the IPAWS mission is to integrate and modernize the EAS, through upgraded, interoperable standards such as CAP. See <http://www.fema.gov/emergency/ipaws>. The existing EAS is a tiered warning distribution system that relies on EAS Participants to transmit audio or visual emergency alert messages to the public. To initiate an EAS message, the message source (e.g., FEMA, NWS, state emergency management authority) must format a message in the legacy "EAS Protocol," which is identical to the Specific Area Message Encoding (SAME) protocol utilized by the NWS. A legacy EAS alert uses a four-part message: (1) preamble and EAS header codes (these codes contain information regarding the identity of the sender, the type of emergency, its location, and the valid time period of the alert); (2) audio attention signal; (3) message; and (4) preamble and "end of message" (EOM) codes. 47 C.F.R. § 11.31; see also <http://www.nws.noaa.gov/nwr/nwrsame.htm>. The message is then sent to a designated entry point in the EAS network, and relayed to EAS equipment located at EAS Participants' facilities that can receive, decode and encode the alert for broadcast over the EAS Participants' facilities to the public.

²³ See, e.g., Comments of Monroe Electronics, EB Docket No. 04-296, at 2 (May 17, 2010) (Monroe Comments).

²⁴ Comments of Adrienne Abbott-Gutierrez, EB Docket No. 04-296, at 1 (May 17, 2010).

future would be overly burdensome and unwarranted.²⁵ These stations typically operate on limited budgets, and will need the flexibility provided by the Commission's intermediate approach, before considering full conversion to a next-generation CAP-EAS. For these reasons, the Commission's proposal to introduce CAP as a parallel mechanism to the current EAS is the most reasonable approach, as is deferring consideration of issues related to a CAP-only Next Generation EAS to a future proceeding.²⁶

III. The Commission Should Adopt a Practical Regulatory Scheme That Reflects Industry Consensus For CAP-Formatted Messages.

Given the Commission's intention to retain the legacy EAS for the time being, and defer questions regarding the Next Generation EAS until a further proceeding, the Notice seeks comment on various issues related to an EAS Participant's obligation to monitor and accept CAP-formatted messages, and translate such messages into the legacy Specific Area Message Encoding (SAME) format for rebroadcast through the EAS chain and out to the public. Third Further Notice at ¶¶ 30-60. Below NAB offers comments on several of these matters.

A. NAB Strongly Supports the Use of the ECIG Guide For Accepting and Translating CAP Messages.

²⁵ NAB's understanding is that obtaining a CAP-based alerting system that requires a complete revision of all equipment plus conversion to an IP-based system is currently unknowable, and potentially thousands of dollars, plus engineering resources for installation and personnel training.

²⁶ The Commission seeks comment later in the Third Further Notice on whether it is necessary at this time to further clarify EAS Participants' obligation to receive and process CAP-formatted EAS messages delivered over Next Generation EAS distribution systems. Third Further Notice at ¶ 44. NAB does not believe any additional clarification is needed, as the Commission fully explains that its intent is to craft rules governing the processing of CAP-based messages over the legacy EAS until such time as the Next Generation is fully deployed. *Id.* at ¶ 44.

The Commission's existing rules require that EAS Participants be able to accept CAP-formatted messages, but do not provide guidance on what to do with the message thereafter, such as whether or how to decode the CAP message and translate it into the legacy SAME format. See 47 C.F.R. § 11.56. The Commission now seeks comment on whether it should adopt a uniform method for this process, and tentatively concludes that such a method should be based on the EAS-CAP Industry Group (ECIG) Implementation Guide (ECIG Guide).²⁷ Third Further Notice at ¶¶ 31-35.

NAB strongly supports use of the ECIG Guide as the best source for governing this process.²⁸ The ECIG is a broad coalition of EAS equipment, software and service providers who joined efforts to produce a consensus document of recommendations for translating CAP-formatted EAS messages into the SAME-compliant format. The ECIG Guide sets forth a comprehensive, uniform process for generating the exact same EAS message for any given CAP message, regardless of equipment vendor, which will enhance consistency in the decoding and translation of CAP EAS messages for the public benefit.²⁹

We also note that the Commission tasked the Communications Security, Reliability, and Interoperability Council (CSRIC) with proposing revisions to the Part 11 rules in advance of FEMA's adoption of CAP. As described by the Commission, CSRIC's purpose is to provide recommendations to the Commission to ensure optimal

²⁷ ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010, EB Docket No. 04-296 (filed May 17, 2010), available at <http://eas-cap.org/documents.htm>.

²⁸ See, e.g., Monroe Comments at 2; Comments of Gary E. Timm, EB Docket No. 04-296, at 8 (May 17, 2010) (Timm Comments); Comments of Sage Alerting Systems, Inc., EB Docket No. 04-296, at 4 (May 17, 2010) (Sage Comments).

²⁹ See ECIG Guide at § 3.1.

security, reliability, operability, and interoperability of communications systems, including public safety, telecommunications, and media communications systems,³⁰ including recommending ways to improve EAS (and specifically including recommending ways to improve EAS). CSRIC also recommended reliance on the ECIG Guide.³¹ Finally, the ECIG is one of the three documents that define FEMA's IPAWS technical standards for CAP and its implementation.³²

Given the work done by ECIG's coalition of EAS experts, and the broad industry and government support for its guide, the ECIG Guide should be incorporated by reference in the Part 11 rules. This approach will greatly facilitate the Commission's goals during the transition period before full introduction of Next Generation EAS, when EAS Participants need only accept and translate CAP messages into the legacy EAS Protocol. It is also consistent with previous instances when the Commission has relied on industry-sponsored standards-setting work, such as for the digital television transition and HD Radio.

The Commission specifically concludes that the rules would "require EAS Participants to convert CAP-formatted EAS messages into SAME-compliant EAS messages in accordance" with the ECIG Guide. Third Further Notice at ¶ 35. The

³⁰ See Charter of the FCC's Communications, Security, Reliability, and Interoperability Council (CSRIC Charter) at 1, *available at* http://www.fcc.gov/pshs/docs/advisory/csric/CSRC_charter_03-19-2009.pdf.

³¹ CSRIC, Working Group 5A, CAP Introduction, Final Report, § 5.1 ("CSRIC Final Report") *available at* <http://www.fcc.gov/pshs/docs/csric/CSRIC%205A%20Working%20Group.pdf>.

³² See, e.g., August 9, 2010 Memorandum to ECIG from Federal Emergency Management Agency (FEMA) Integrated Public Alert and Warning System (IPAWS) Program Management Office. Federal Emergency Management Agency Concurrence with the "ECIG Recommendations For a CAP EAS Implementation Guide" Guidance, available at http://www.eas-cap.org/IPAWS-ECIG_IG_Concurrence_Memorandum-Aug12_2010.pdf.

wording of this conclusion implies that it would be the responsibility of EAS Participants to ensure that their equipment complies with requirements set forth in the ECIG Guide. EAS Participants, however, are not in a position to either (1) examine or (2) verify that their equipment is ECIG-compliant. They must instead rely on the expertise and representations of manufacturers in this regard. For this reason, ensuring compliance with the ECIG Guide should rest with the equipment manufacturers, as part of their obligation to pass IPAWS conformance testing, and any revised rules should be crafted to reflect this approach. We note that Sage Alerting, which manufactures EAS equipment, believes this would place an unnecessary burden on EAS Participants.³³ In short, equipment manufacturers should be held responsible under Part 11 Rules for ensuring compliance with the ECIG Guide. Thus, we urge the Commission to make clear that EAS Participants are not required to ensure compliance with the ECIG Guide.

B. The Commission Need Not Specify Audio Encoding of CAP-Formatted Messages In Its Rules Because Equipment Manufacturers Will Follow ECIG Performance Guidelines.

The Commission's queries whether it is technically feasible to encode the audio portion of a CAP-formatted alert message into a SAME-compliant message for rebroadcast to monitoring stations. See Third Further Notice at ¶ 34. Audio in CAP messages is delivered either as (1) an embedded file or (2) a URL link to an alternate source that provides streaming audio. It appears that the Commission is concerned that a broadcast station may be unable to properly encode the audio into a SAME message, and therefore seeks comment on what explicit performance objective it should specify in its rules.

³³ See Sage Comments at 4.

It is technically feasible to encode audio delivered via a CAP-formatted message into SAME-compliant EAS alerts. The ECIG Guide provides specific guidance on how to process such audio.³⁴ Whether the audio in the SAME-formatted EAS alert (1) originates as a file embedded in the CAP message that is decoded by the EAS equipment; (2) originates from a streaming source accessed via a link embedded in the CAP XML text; or (3) is generated using a text-to-speech device that creates the audio from the CAP data stream, current technology easily provides the capability to reliably encode the audio into SAME-compliant EAS messages. Ultimately, the governing issue is not *where* the audio originates; rather, the significant point is that it *will emanate* from the output of the EAS *equipment properly formatted in the SAME alert message*. Presumably, all ECIG compliant equipment must properly process CAP-delivered audio into EAS messages. Thus, the Commission need not provide specific performance audio translation guidelines.

Moreover, because different broadcast facilities are inherently configured in different manners, the Commission should allow a station flexibility to implement EAS equipment in a way that is best for that station. The specific engineering of a CAP implementation must, as a practical matter, be slightly different for each broadcast facility. There cannot be a one-size-fits-all-solution. The Commission should therefore only specify in its rules that broadcast stations have the ability to put the associated audio of a CAP message or a representation of that audio (e.g. text-to-speech, or live announce) on the air.

³⁴ See ECIG Guide at § 3.5.

Accordingly, NAB again recommends (as it did above) that the Commission formally adopt the ECIG Guide. This will ensure a consistent approach for translating CAP messages into SAME-formatted EAS alerts.

C. The Commission Should Not Be Overly Prescriptive As to Monitoring CAP Sources.

The Part 11 rules require that EAS Participants monitor at least two EAS sources, as identified in the State EAS Plans.³⁵ As a general matter, EAS Participants monitor two state or local sources of EAS alerts, such as two Local Primary (LP) stations that, in turn, monitor the federal EAS source. This process functioned as intended under the existing EAS “daisy-chain” approach. With the advent of direct, federal origination of CAP-formatted EAS messages, CSRIC and others urge the Commission to amend the rules to require that EAS Participants monitor a federal CAP source, plus at least one state or local CAP EAS source.³⁶ The Commission notes that FEMA’s IPAWS system will utilize RSS to circulate CAP EAS alerts.³⁷ Under FEMA’s program, EAS Participants will download RSS capability within their EAS equipment, and periodically survey or poll FEMA’s RSS source. Third Further Notice at ¶ 38. The Commission seeks comment on amending the Part 11 rules to reflect this process.

³⁵ 47 C.F.R. § 11.52(d). All EAS Participants are required to follow their State EAS Plans, which specify the monitoring assignments for all broadcast stations and cable systems within that state. These plans also include guidelines for emergency officials and the NWS to activate the EAS system. Commission rules require that State EAS Plans must be submitted to the Commission, and approved by the Chief of the Public Safety and Homeland Security Bureau, prior to implementation to ensure they are consistent with national plans, Commission rules, and EAS operation. *Id.* at § 11.21.

³⁶ CSRIC Final Report, § 5.1; see e.g., Reply Comments of Gary E. Timm, EB Docket No. 04-296, at 2 (filed June 2, 2010); Comments of TFT, Inc., EB Docket No. 04-296, at 7 (filed May 14, 2010).

³⁷ Third Further Notice at ¶ 38, fn. 116, citing FEMA standards found at http://www.fema.gov/emergency/ipaws/CAP_Feed.shtm.

Third Further Notice at ¶ 39. The Commission also seeks comment on requiring EAS Participants to monitor state and local EAS messages, but only to the extent such alerts are formatted in CAP and distributed via RSS. Third Further Notice at ¶ 69.

NAB submits that it is unnecessary for the Commission's rules to specify a particular method for the monitoring of any CAP EAS messages, whether delivered by federal or state or local authorities. Rather, the Commission should be agnostic about how such messages must be formatted, and merely craft the rules in a way that ensures the monitoring of emergency transmissions provided by federal, state and local emergency operations managers, in whatever form such transmissions are provided. The rules should be flexible enough to accommodate any technology changes that may occur in any alert originator's process for distributing CAP EAS messages.

For example, given the rapid development of Internet technology, FEMA may later decide to employ a distribution system other than RSS feeds. It would be entirely sufficient for the Commission's rules simply to require that EAS Participants be capable of monitoring CAP EAS sources without specifying any particular mechanism or format, such as RSS feeds. The Commission can rely on EAS Participants and equipment manufacturers to craft an EAS that implements any process envisioned and introduced by FEMA, without the need for subsequent rulemaking proceedings in response to minor or other technical changes in that process.

Similarly, with respect to state and local EAS messages, we differ with the Commission's proposal to require that EAS Participants specifically monitor state RSS-delivered CAP messages. *Id.* at ¶ 40. The monitoring of state EAS alerts is a matter best addressed in State EAS Plans.

The Commission expresses concern that EAS Participants in certain states may need multiple types of monitoring equipment, if the State EAS Plan calls for a different mechanism than the federal government. Third Further Notice at ¶ 39. However, this is already a reality in some states. Additionally, in some states with modernized EAS plans, EAS Participants are often provided the necessary monitoring equipment as part of the statewide EAS program. A Commission rule that would specify exactly how an EAS Participant must monitor state and local EAS sources thus could undermine the effectiveness of these existing arrangements and perhaps impede future state-EAS Participant arrangements by unnecessarily dictating overly specific terms.

Again, we would encourage the Commission to inject a measure of flexibility into Part 11. At least 18 states and their EAS industry partners currently operate, or plan to introduce, IP-based EAS networks, many of which already employ the CAP messaging format. CSRIC Final Report at § 4.2. However, many of these systems do not distribute EAS alerts through RSS feeds; instead, alerts are distributed utilizing some other method identified in the State EAS Plan. The revised Part 11 rules should be amended in a manner that accommodates these existing state EAS programs and plans, and avoids causing unnecessary change and disruption.

D. The Commission Should Consider a Notification Process For Those Stations Without Reliable Internet Access.

Mandating that EAS Participants monitor the federal EAS RSS feed may present problems for certain stations. Although it is difficult to generate accurate data, there is no dispute that a number of EAS Participants, most likely radio stations, are located in rural and other areas lacking broadband Internet access. As a practical matter, stations that are relegated to “dial-up” only Internet service cannot monitor an RSS feed. The

Commission, therefore, must take into account these stations in implementing the CAP EAS monitoring rules, given their inability to monitor the IP-based federal alerting source. It should provide such stations with the flexibility to receive CAP formatted messages by any means other than the Internet, including, but not limited to, satellite, microwave, telephone (including mobile or traditional “landline” services), digital television (DTV), or alternative reception means to ensure receipt of CAP-formatted messages.

The Commission should also consider establishing a simplified notification process for EAS Participants without reliable Internet access. One possible approach may be to revise the Part 11 rules to include a “Notice” or “Self-Certification” process in which stations can certify to the Commission that they cannot reliably monitor an RSS feed for CAP-formatted messages due to service availability. Rather than a formal waiver process, such a mechanism will conserve Commission resources that would be needed to review and process individual waiver requests.

E. The Use of Intermediary Devices Is a Cost-Effective Option Which Satisfies an EAS Participant’s CAP Obligation and Is Already Deployed in the Market.

The Commission raises a variety of issues related to the capabilities of EAS equipment that will be deployed during the transitional period when EAS Participants need only be able to accept CAP-formatted EAS messages and translate them into the legacy analog SAME format for rebroadcast to end users or the public. Third Further Notice at ¶¶ 45-60. Below, NAB addresses certain of these issues.

The Commission seeks comment on the use of so-called intermediary devices to meet an EAS Participant’s obligations during this transitional period. *Id.* at ¶ 45. Such

devices accept and decode CAP-formatted alerts and then translate and encode them into a SAME-formatted message for delivery to a station's existing EAS encoder. The Commission asks generally whether EAS Participants should be permitted to meet their CAP-related obligations by employing an intermediary device, and whether such devices should be subject to the Part 11 Rules applicable to existing EAS equipment.³⁸

NAB supports the use of intermediary devices as a cost-effective option that will fully satisfy an EAS Participant's CAP obligations. These devices, which can later be upgraded or replaced as needed to fulfill one's obligation to implement the Next Generation EAS, are typically less expensive than new equipment that is capable of meeting an EAS Participant's long-term CAP-related obligations. As the Commission notes, several manufacturers are already producing such intermediary devices, presumably in response to market demand, with efficient, cost-effective features that provide options for EAS Participants to comply with the upcoming EAS rules.³⁹

For certain smaller broadcast stations, and stations in small or rural markets with less financial resources, intermediary devices are particularly useful alternatives. As described above, broadcasters take pride in their unique role as the backbone of EAS, but the federal obligation to upgrade one's EAS equipment to a CAP-based system is nevertheless an additional financial challenge that arrives during difficult economic circumstances. Accordingly, any measure of flexibility that the Commission can provide in the Part 11 rules that enables broadcasters to better absorb the costs of upgrading EAS equipment, such as intermediary devices, will ultimately enhance the efficient

³⁸ Third Further Notice at ¶¶ 45-47.

³⁹ *Id.* at ¶¶ 45 citing TFT Reply Comments at 3 (stating that CAP compliance can be fulfilled with "a unit that receives CAP only and can be added to an existing FCC Type Notified EAS decoder or EAS combined encoder/decoder").

introduction of CAP-enabled equipment. As a practical matter, many broadcasters have already purchased intermediary equipment and it is deployed in the field. Such equipment should be regarded as compliant with Commission rules.

As with other compliance questions discussed above, NAB also urges the Commission not to adopt overly restrictive encoder and decoder rules for intermediary devices. It is unnecessary for the Commission to create specialized regulations for these devices that address in detail every aspect of how such equipment should perform. Rather, the Commission should merely adopt global regulations to specify that intermediary devices are ECIG compliant, enable EAS Participants to satisfy their obligations to accept and decode a CAP-formatted EAS message and can translate and encode that message into the SAME-format for retransmission via the existing EAS path.⁴⁰ Such an approach is completely sufficient, as vendor experience and government testing will ensure that intermediary technology fully implements the Commission's goals.

F. The Commission Should Encourage Flexibility For the EAS Equipment Marketplace.

Similarly, the Commission seeks comment on whether to mandate that encoders be equipped with an Ethernet port, and if so, how many. Third Further Notice at ¶ 52. NAB respectfully submits that these are the sort of technical questions the Commission

⁴⁰ The Commission also notes that CSRIC proposes that EAS encoders be required to encode a CAP-formatted message. Third Further Notice at ¶ 50 citing CSRIC Final Report § 5.1. NAB submits that it would be premature for the Commission to adopt such a requirement at this time. The scope of this Notice is properly limited to the transitional period when EAS Participants must only accept CAP-formatted messages and transmit a SAME-formatted message. The better course would be to wait and see how Next Generation EAS develops, and how EAS Participants and manufacturers respond, before mandating any particular CAP encoding requirements for EAS encoders.

need not specify. The Commission should only require that the equipment have the capability to access the Internet. EAS Participants will have varying needs for their encoder boxes, depending on their individual circumstances, and manufacturers are well-versed and responsive to those needs. There is no risk that vendors will fail to provide EAS boxes that can fulfill participants' specifications. Moreover, there are already EAS boxes in the market, with options and functions that should not now be deemed non-compliant by new Commission requirements. Thus, it is critical that the Commission be flexible in this area, and permit manufacturers and EAS Participants to self-determine the particular plugs, outlets and ports to install on an encoder box. Any new regulation that could require vendors to remove or change Ethernet ports, or any other particular features from existing boxes, would cause unnecessary delay and expense for everyone involved, and as described below, necessitate further extension of the Commission's deadline for EAS Participants to be able to accept CAP-formatted messages.

G. The Architecture of State EAS Networks and Monitoring of State-Level CAP Should Be Addressed in State EAS Plans.

The Commission seeks comment on a series of miscellaneous potential rules changes related to full implementation of CAP. In general, NAB supports the recommendations of CSRIC that the existence of CAP should be reflected in various rule sections regarding, among others, the minimum equipment deployment and message transmission obligations of EAS Participants, 47 C.F.R. § 11.11, and the architecture of state EAS relay networks, 47 C.F.R. §§ 11.11 and 11.20. Third Further Notice at ¶¶ 62-63. Of relevance to the latter, NAB submits that state EAS networks is another area where it is important that the Commission refrain from unduly restrictive

rules. There are approximately 18 state networks that either already incorporate CAP, or soon will. These state networks, which have been created through successful partnerships between state and local emergency management authorities and the private sector, should not be upended by Commission rule changes. Many of the more technical issues raised in the Notice related to state EAS networks are properly addressed in State EAS Plans, instead of the Commission's rules.

H. The Commission Should Allow the Public to Receive Enhanced Emergency Video Crawl Information.

The Commission also asks several questions related to when EAS Participants must transmit visual EAS messages, such as a video crawl, and what should be included in that message. Third Further Notice at ¶¶ 82-86. Currently, the content of visual messages is gleaned from the EAS header codes in SAME-formatted EAS messages. However, much richer, more descriptive alert-related information can be delivered in the body of CAP-formatted messages. The Commission explains that during this transition period, because EAS Participants will not have to encode messages in CAP format, there may be functional variations among EAS Participants. That is, some participants will be able to present a video crawl developed from an EAS message formatted in SAME format, while others will be capable of doing so from a CAP-formatted message that contains additional descriptive, alert-related information. Third Further Notice at ¶¶ 84. As a result, it is possible that different viewers would receive different amounts of information concerning the same incident, depending on their location. The Commission tentatively concludes that the EAS messages received by the public should be uniform regardless of whether it derives from an EAS message

formatted in SAME or CAP, to prevent inconsistencies or confusion, but seeks comment on this approach. *Id.* at ¶¶ 83-85.

NAB submits that visual messages developed from a legacy SAME-formatted message should serve as the baseline amount of information broadcast to viewers, but that no restrictions should be placed on an EAS Participant's optional delivery of additional alert-related information in the event a participant has the ability to encode a CAP-formatted message. From a pragmatic standpoint, it makes little sense to prevent the public from receiving video crawls containing enhanced emergency information, such as evacuation routes, street-by-street closings, car descriptions for AMBER Alerts, etc., should their EAS Participant be capable of delivering such content.

The Commission's concerns about potential confusion among viewers are easily overcome by the public benefits of providing better, more descriptive emergency warning visual crawls wherever possible, even if some measure of consistency must be sacrificed. At some point in the future, all EAS Participants will be able to provide identical visual crawls based on CAP-formatted EAS messages. Until such time, those participants with the ability to provide additional emergency alert information because they have CAP-decoding capabilities should not be prevented from doing so, assuming they are also complying with the basic obligation to provide certain content in a visual crawl pursuant to Section 11.51 of the Commission's rules. 47 C.F.R. § 11.51. Thus, the Commission should allow EAS Participants flexibility in transmitting visual emergency information.

I. The Commission Should Not Eliminate the EAS Operating Handbook.

The Commission also seeks comment on whether it should eliminate the EAS Operating Handbook, which sets forth the actions that EAS Participants must take upon receipt of an Emergency Alert Notification (EAN), Emergency Alert Termination message (EAT), EAS tests, and state and local alerts.⁴¹ A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions. 47 C.F.R. § 11.15.

The Commission asks whether it should eliminate the handbook as superfluous to an automatic national EAS alert process, and perhaps alternatively require the posting of State and Local Area EAS Plans. Third Further Notice at ¶¶ 154-156. NAB appreciates the Commission's interest in simplifying procedures to better reflect how national EAS alerts will work in the future. We believe, however, there is still value in requiring that the EAS Operating Handbook be immediately available to EAS Participants. During any situation rising to the level of a national EAS alert, it is easy to imagine station personnel who are responsible for EAS also addressing other problems, including keeping their station up and running. It is also very possible that the local impact of such a wide-scale disaster could disrupt a station's staffing, such that an employee who is less familiar with EAS may have to step in to handle the EAS alert. An employee in this situation may need any extra guidance he or she can obtain, notwithstanding any EAS training they will have received.

⁴¹ Third Further Notice at ¶¶ 152-159. The handbook is required under 47 C.F.R. § 11.15. The EAN is the legacy SAME code for national activation of the EAS, and can only be activated by the President, FEMA, or the Department of Homeland Security. The EAT is the notice to all broadcast stations, cable systems and wireless cable systems, other regulated services of the FCC, participating industry entities, and to the general public that the EAN has terminated. 47 C.F.R. § 11.13.

Although the EAS Operating Handbook may be simplistic and less useful for station engineers who deal with EAS on a regular basis, it could be an important resource during a large-scale, national emergency. NAB agrees that State EAS Plans could ultimately serve as a sufficient substitute, but we understand that, at this time, the depth and quality of State EAS Plans varies widely. Many State EAS Plans do not include summarized instructions on how to process national EAS alerts, or state and local alerts. And a reality is that many plans have not been updated for several years. For these reasons, NAB supports both the retention and updating of the EAS Operating Handbook. Broadcasters and other industry stakeholders are willing to work with the Commission and FEMA to ensure that the Operating Handbooks reflect current technology. Moreover, we strongly encourage the Commission to work with state and local EAS Plans to ensure they include an easy set of step-by-step instructions for handling local, state and national EAS alerts (including contingency plans for glitches in the EAS system).

IV. The Commission Should Recognize FEMA's Equipment Conformance Testing.

Under Part 11 of the rules, EAS encoders and decoders must be certified by the Commission in accordance with Part 2 of the rules. 47 C.F.R. § 11.34. The Commission notes that, separately, FEMA has implemented an IPAWS Conformity Assessment program for CAP products intended to operate with the IPAWS system. Third Further Notice at ¶ 91. Generally, the Commission asks whether and how it should certify that new CAP-compliant EAS equipment complies with CAP, within its existing Part 11-Part 2 equipment certification process. *Id.* at ¶ 94.

NAB submits that the Commission should largely rely on FEMA's conformance testing for determining whether EAS equipment complies with CAP. IPAWS has implemented EAS equipment conformance testing that incorporates testing to determine equipment compliance with the standards and procedures set forth in the ECIG Guide regarding CAP-to-EAS translation.⁴² Accordingly, there does not seem to be a need for the Commission to separately certify compliance with CAP or the ECIG Guide. As Sage and others suggest, the Commission should merely require that EAS equipment manufacturers file their Supplier's Declaration of Conformity from the FEMA testing lab as a prerequisite of obtaining Commission certification for a CAP-decoding EAS device.⁴³ Such a process would conserve Commission resources, promote interagency coordination, and most importantly, speed the deployment of EAS equipment that complies with both FEMA and Commission requirements, for the benefit of the public.

Moreover, the market for CAP-compliant EAS equipment market is far ahead of the now-contemplated Part 11 rule changes. For almost two years, there has been EAS equipment available in the market designed to process CAP-formatted EAS messages, including intermediary equipment capable of accepting CAP EAS messages and translating them to the current SAME format before retransmission. Many EAS

⁴² See, e.g., August 9, 2010 Memorandum to ECIG from Federal Emergency Management Agency (FEMA) Integrated Public Alert and Warning System (IPAWS) Program Management Office. Federal Emergency Management Agency Concurrence with the "ECIG Recommendations For a CAP EAS Implementation Guide " Guidance, available at http://www.eas-cap.org/IPAWS-ECIG_IG_Concurrence_Memorandum-Aug12_2010.pdf. FEMA's test lab provides a final test report to manufacturers when equipment passes the IPAWS conformance tests, and issues a template Supplier's Declaration of Conformity ("SDoC"), which can be found at <https://www.rkb.us/search.cfm?query=ipaws>.

⁴³ Sage Comments at 4; Timm Comments at 8; Monroe Reply Comments at 1-2.

Participants have already installed such equipment, based on FEMA's equipment conformance process. Any additional FCC equipment certification at this point in the process could cause considerable marketplace disruption. NAB therefore submits that the Commission should not disrupt the already installed universe of FEMA-certified, CAP-compliance EAS equipment in revising the Part 11 rules.

V. The Commission Should Extend the Deadline for Accepting CAP-Formatted EAS Messages.

Pursuant to the Commission's rules, EAS Participants must be able to accept CAP-formatted EAS messages within 180 days of the date that FEMA adopts CAP standards. 47 C.F.R. § 11.56. FEMA took such action on September 30, 2010, thereby establishing a deadline of March 29, 2011.⁴⁴ Subsequently, the Commission extended the deadline until September 30, 2011, based partly on concerns that some licensees would face difficulties in obtaining suitable CAP-compliant equipment in a timely manner.⁴⁵ The Commission noted that certain recent developments, such as FEMA's intention to conduct equipment conformance testing, and also produce a CAP-to-EAS translation guide that would be critical to the development of EAS equipment, could make it overly burdensome for some EAS Participants to identify and obtain appropriate equipment before the deadline. Waiver Order at ¶ 9. In the Third Further Notice, the Commission now seeks comment on further extending this deadline, and if so, for how much longer. Third Further Notice, at ¶¶ 110-111.

⁴⁴ *FEMA Announces Adoption of New Standard for Emergency Alerts*, available at <http://www.fema.gov/news/newsrelease.fema?id=52880>.

⁴⁵ Review of the Emergency Alert System, *Order*, EB Docket No. 04-296, FCC 10-191 (*rel.* Nov. 23, 2010 ("Waiver Order")).

NAB has consistently supported the establishment of a CAP-compliance deadline that accommodates the various obligations that EAS Participants have to identify, obtain, install and test new CAP-compliant equipment.⁴⁶ For instance, in the Waiver Petition, NAB joined a coalition of EAS Participants, including representatives of commercial and noncommercial television and radio stations, cable operators, and broadcast engineers, in seeking an extension of the deadline because of (1) the possible introduction of Commission certification of CAP-compliant EAS equipment, and (2) concerns over EAS Participants' budgeting for the expense of new EAS equipment, especially by noncommercial radio and television stations. Waiver Petition at 5-7.

Given these challenges, and the ones described below, NAB believes that a further extension of the CAP-compliance deadline is warranted. Foremost, the Commission is in the process of a rulemaking which may not be finalized by the September 30 deadline. A crucial element that has been raised in this proceeding is whether the Commission will implement equipment certification testing, separate from FEMA IPAWS conformance testing.⁴⁷ Given this regulatory uncertainty, EAS Participants would need additional time to include review of these testing results before making their EAS equipment purchasing decisions. Similarly, if the Commission were to adopt any rules in this proceeding that would affect the basic structure or function of EAS equipment, such as rules concerning Ethernet ports or other connection-type

⁴⁶ See Informal Comments of the National Association of Broadcasters, EB Docket No. 04-296, DA 10-500 (filed May 17, 2010) ("NAB Part 11 PN Comments"); Petition for Expedited Extension of the 180-Day "CAP" Compliance Deadline, EB Docket No. 04-296 (filed Oct. 21, 2010) ("Waiver Petition").

⁴⁷ Monroe Comments at 2.

aspects of an encoder/decoder box,⁴⁸ then an extension would be needed to allow manufacturers to modify equipment, both still in development and already in the market. A further extension of the CAP-compliance deadline will enable EAS Participants to take into account any changes this proceeding brings to Part 11 before making their equipment purchasing decisions.

It is also appropriate to extend the deadline in light of the fact that the majority of EAS message originators will not be prepared to send a CAP-enabled message for the foreseeable future. While FEMA and the Commission have led the effort to convert to CAP, that effort appropriately focuses on the federal government's use of EAS for national emergencies, and does not reflect the fact that almost all EAS alerts currently originate from the NWS and state and local authorities.

Because a majority of the states and the NWS have no immediate plans to originate a CAP-enabled message, NAB submits that a further 180-day extension in the CAP-compliance deadline, tied to the effective date of the rules adopted in this proceeding, is warranted. In addition to the potential FCC certification and equipment requirement functions mentioned above, this period of time would enable EAS Participants to review and adapt to the final rules adopted or altered in this proceeding. It should also allow time for potential petitions for reconsideration to be resolved.⁴⁹

⁴⁸ Third Further Notice at ¶ 52.

⁴⁹ As detailed in Section III.D., there is also the matter of those EAS Participants who lack IP-connectivity, thereby preventing them from complying with the new federal requirement to monitor the federal EAS originator's RSS feed. NAB submits that, while approving a global extension to address only these situations may be overbroad, the obstacles faced by such broadcasters must be addressed in some manner. As such, any requirement to upgrade to a CAP-enabled system must recognize these inherent limitations.

VI. The Commission Should Clarify EAS Participants' Obligations to Process CAP-Compliant Gubernatorial EAS Messages

Under the current rules, EAS Participants must be able to accept and retransmit state-level CAP-formatted EAS messages, as delivered by the state governor or her designee (or by FEMA on the governor's behalf), provided that the process for delivery of such EAS messages is accurately described in the State EAS Plan.⁵⁰

Broadcasters support the generally flexible approach the Commission adopts towards the processing of state-level CAP EAS messages. The Commission expresses a preference for uniformity among state-level methodologies in order to simplify the design and production of EAS equipment. Third Further Notice at ¶ 115. It also concludes that the obligations to receive, translate and transmit CAP-formatted messages initiated by governors shall apply only to the extent states have implemented the same terms and conditions as FEMA for formatting and delivering CAP EAS messages. *Id.* at ¶¶ 116-118.

The Commission appropriately provides flexibility for states that may have already established, or may create in the future, a wholly unique CAP-based EAS system, properly recognizing state authority, in partnership with EAS Participants, to voluntarily design and deploy a state CAP messaging methodology that differs from the standards adopted by FEMA, according to their own timeline and terms. *Id.* at ¶¶ 116-117. This approach accommodates the approximately 18 states that are capable of distributing IP-based CAP messages, plus the other 8-10 states in various near-term stages of introducing CAP message origination and dissemination.⁵¹ It will also provide flexibility to additional states as they start to research and develop the particular CAP-

⁵⁰ 47 C.F.R. §§ 11.21(a), 11.55(a).

⁵¹ CSRIC Final Report, § 4.1.2.

based system that best suits their particular circumstances. NAB believes that any rules adopted by the Commission concerning state-level EAS systems should continue to respect the discretion of state authorities and local EAS Participants.

The Commission notes that the obligation to process CAP EAS messages initiated by governors also applies to such messages that may be initiated by a state governor's "designee,"⁵² and invites comment on whether such a designee could include political subdivisions, tribal or other state governmental entities. Third Further Notice at ¶ 129. NAB respectfully reiterates our concern with the delegation of mandatory EAS activation below the gubernatorial level.⁵³

Broadcasters remain highly concerned that multiple sources of state or local EAS alerts, below that of a state governor or a single designee, such as the state emergency operations manager, could lead to public confusion or, alternatively, desensitization if multiple alerts of the same event are triggered.⁵⁴ This could undermine the primary purpose of EAS, to ensure that people take immediate action to preserve their health, life, safety and property. The Commission should therefore make clear that an EAS Participant's obligation to receive and transmit a gubernatorial EAS alert is limited to the governor and/or his or her single designee specified in a submitted and approved State

⁵² Third Further Notice at ¶ 128 citing 47 C.F.R. § 11.55. The Commission previously addressed this issue in the Second Report and Order, where it recognized that allowing political subdivisions like cities and counties to issue must-carry EAS messages could be unduly complex and create the potential for warnings to be issued in areas not affected by a particular situation. Second Report and Order, 22 FCC Rcd at 13300-01.

⁵³ NAB Part 11 PN Comments, at 9-11.

⁵⁴ Many broadcasters are also concerned that the gubernatorial carriage requirement is not fulfilling its original intent.

EAS plan.⁵⁵ This will help ensure that only authorized, trained personnel may issue EAS alerts, simplify cooperation among state officials and EAS Participants, and facilitate coordination between bordering states on EAS alerts.⁵⁶

VII. Conclusion.

For the reasons stated above, NAB respectfully requests that the Commission amend its regulations governing EAS as indicated in these comments.

Respectfully submitted,



Jane E. Mago
Jerianne Timmerman
Ann West Bobeck
Larry Walke
NATIONAL ASSOCIATION OF BROADCASTERS
1771 N Street N.W.
Washington, D.C. 20036
(202) 429-5430

Kelly Williams
Senior Director
Engineering and Technology Policy
NAB Science & Technology

Date: July 20, 2011

⁵⁵ See *Second Report and Order*, 22 FCC Rcd 13275, 13300-001. See also 47 C.F.R § 11.55.

⁵⁶ *Id.* at 13280-281.