

information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 11, 2024.
Meghan A. McCollister,
Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

EPA-APPROVED IOWA REGULATIONS

Subpart Q—Iowa

2. In § 52.820, the table in paragraph (c) is amended by revising the entry “Chapter 10” under the heading “Linn County” to read as follows:

§ 52.820 Identification of plan.

\* \* \* \* \*
(c) \* \* \*

Table with 5 columns: Iowa citation, Title, State effective date, EPA approval date, Explanation. Includes section for Linn County with details on Chapter 10 Linn County Air Quality Ordinance.

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[FR Doc. 2024-08283 Filed 4-17-24; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[PS Docket Nos. 15-91, 15-94; FCC 24-30; FR ID 212382]

The Emergency Alert System and Wireless Emergency Alerts

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on a proposal to adopt a new Emergency Alert System (EAS) event code for the delivery of critical messages to the public over television and radio about missing and endangered persons.

DATES: Comments are due on or before May 20, 2024 and reply comments are due on or before June 17, 2024.

ADDRESSES: 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 in this document. Comments and reply comments may be filed using the Commission’s Electronic Comment

Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Interested parties may file comments or reply comments, identified by PS Docket Nos. 15-91 and 15-94 by any of the following methods: You may submit comments, identified by PS Docket Nos. 15-91 and 15-94, by any of the following methods:

• Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: https://apps.fcc.gov/ecfs/.

• Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

• Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All

filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

- *People with Disabilities*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call 1-888-CALL-FCC (voice).

**FOR FURTHER INFORMATION CONTACT:** Theodore Marcus of the Office of Intergovernmental Affairs, Consumer and Governmental Affairs Bureau, at [theodore.marcus@fcc.gov](mailto:theodore.marcus@fcc.gov) or (202) 418-2610; Dana Bowers of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at [dana.bowers@fcc.gov](mailto:dana.bowers@fcc.gov) or (202) 418-2809.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), in PS Docket Nos. 15-91 and 15-94; FCC 24-30, adopted on March 14, 2024, and released on March 15, 2024. The full text of this document is available online at <https://www.fcc.gov/document/fcc-proposes-new-emergency-alert-code-missing-endangered-adults>.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 through 1.1216. 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. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

### Initial Paperwork Reduction Act of 1995 Analysis

The *NPRM* may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on any information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how to further reduce the information collection burden for small business concerns with fewer than 25 employees.

### Providing Accountability Through Transparency Act

The Providing Accountability Through Transparency Act, Public Law 118-9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of the *NPRM* is available at <https://www.fcc.gov/proposed-rulemakings>.

### Synopsis

1. This *NPRM*, initiates a proceeding to amend § 11.31(e) of the Emergency Alert System (EAS) rules to adopt a new EAS event code for missing and endangered person incidents, "MEP", and seeks comment on this proposal. The proposed new MEP event code will allow for the coordination of and uniformity in the transmission of "Ashanti Alerts" associated with persons missing or abducted from states, territories, or Tribal communities that fall outside of AMBER Alert notification criteria to the public. While of a widespread concern, the issue of missing and endangered person is particularly prevalent in Tribal communities, where American Indian and Alaska Native people are at a disproportionate risk of experiencing violence, murder, or vanishing. The Commission proposes and seeks comment on whether adding a MEP event code to the EAS to trigger missing and endangered person alerts would serve the public interest by furthering the goal of the Ashanti Alert Act to disseminate information to the public that protects law enforcement officials, and the public at large.

2. The EAS and Wireless Emergency Alerts (WEA) systems are used to distribute tens of thousands of warnings to the public every year, providing critical notice of emergencies ranging

from severe weather events, such as tornados and hurricanes, to natural disasters, such as tsunamis and wildfires, to civil emergencies, such as AMBER alerts and law enforcement warnings. These emergency alerts provide critical information and empower affected communities to take appropriate action and aid public safety officials in their efforts to address emergencies. Will having a coordinated and uniform missing and endangered person alert network help public safety officials and others investigating the number of such incidents? Will it benefit the public? The Commission seeks comment on these proposals.

3. Of particular relevance to this proceeding, the EAS Protocol currently utilizes a three-character "event code" to describe the nature of the alert (e.g., "CAE" signifies a Child Abduction Emergency, otherwise known as an AMBER Alert). In 2022, approximately 187,000 adults who fell outside of the criteria for AMBER Alerts went missing in the United States. The Commission proposes to revise the Commission's EAS rules to add a new MEP event code for all EAS alerts about missing and endangered person incidents that do not meet the criteria for an AMBER Alert.

4. *EAS Architecture*. The EAS is a national public warning system through which TV and radio broadcasters, cable systems, and other service providers ("EAS Participants") deliver alerts to the public to warn them of impending emergencies and dangers to life and property. The primary purpose of the EAS is to furnish the President with the capability to provide immediate communications and information to the general public at the national, state and local area levels during periods of national emergency. The common usage of the EAS, is to distribute alerts issued by state and local governments, as well as by the National Weather Service (NWS) to the public. While EAS Participants are required to broadcast Presidential alerts (and certain test alerts designed to ensure the EAS is functioning properly), they participate in broadcasting state and local EAS alerts voluntarily. The Commission, the Federal Emergency Management Agency (FEMA), and the NWS implement the EAS at the federal level. EAS alerts are configured using the EAS Protocol, which utilizes fixed codes to identify the various elements of an EAS alert so that each alert can deliver accurate, secure, and geographically-targeted alerts to the public. For over two decades, the EAS has proven to be an effective method of alerting the public and saving lives and property. The Commission seeks comment on the

efficacy of the EAS as a mechanism for the delivery of missing and endangered person alerts.

5. EAS Participants have discretion as to whether they issue EAS alerts other than the National Alert. As with other non-Presidential alerts, EAS Participants' carriage of missing and endangered person alerts and use of the MEP event code would be voluntary. Would EAS Participants be more likely to retransmit missing and endangered person alerts with a dedicated MEP event code?

6. The EAS distributes messages in one of two ways. The first method is through a broadcast-based, hierarchical alert message distribution system in which an alert message originator at the local, state or national level encodes (or arranges to have encoded) a message in the EAS Protocol. The alert is then broadcast from one or more EAS Participants, and subsequently relayed from one station to another until all affected EAS Participants have received the alert and delivered it to the public. This process of EAS alert distribution among EAS Participants is often referred to as the "daisy chain" distribution architecture. Because this EAS architecture has been in place since the inception of the EAS, it is often referred to as the "legacy EAS." The second method of distribution is an IP-based process. Since June 30, 2012, authorized emergency alert authorities have been able to distribute EAS alerts over the internet to EAS Participants (who in turn deliver the alert to the public) by formatting those alerts in the Common Alerting Protocol (CAP) and delivering those alerts through the FEMA-administered Integrated Public Alert and Warning System (IPAWS). This process for distributing alerts to EAS Participants represents the "CAP-based" EAS. Both the legacy and CAP-based EAS architectures are designed so that EAS Participants deliver to the public the alert content they receive from the EAS sources they monitor. Further, the EAS architecture and equipment is designed to operate automatically, without any intervention from the EAS Participant, both to minimize the risk of operator error and to facilitate EAS operation at unattended stations. EAS alerts delivered over the IPAWS can contain detailed text files, non-English alerts, or other content-rich data that is not always available in EAS alerts delivered via the broadcast-based daisy chain. Do missing and endangered person alerts or "Ashanti Alerts" routinely contain extra text files or other data-rich content that would benefit from the capabilities of IPAWS? Would it have a negative impact on the value

of a dedicated MEP event code that such data-rich content may not be delivered to all EAS Participants, depending on how they receive the alert?

7. *Wireless Emergency Alerts*. The Wireless Emergency Alert system is a tool for authorized federal, state, local, and Tribal governments to geographically target alerts and warnings to the WEA-capable mobile devices of participating commercial mobile service providers' subscribers. Many people within the United States depend on WEA, as well as EAS, for public alerts and warnings. However, the WEA does not use event codes in the same manner as EAS. Rather, alert origination software and FEMA IPAWS map EAS event codes onto WEA handling codes that correspond to the alert message classifications that the Commission authorizes for issuance over WEA: National Alert, Imminent Threat Alert, AMBER Alert, and Public Safety Message. What effect would the adoption of an MEP event code for EAS have on WEA? Should the WEA rules be revised to create a separate alert message classification for missing and endangered persons alerts? Should alert origination software and FEMA IPAWS map the MEP code onto the AMBER Alert message classification, the Public Safety Message Classification, or a new alert message classification specifically for missing and endangered person alerts? If missing and endangered person alerts, including Ashanti Alerts, merit a unique WEA alert message classification, should participating Commercial Mobile Service (CMS) Providers be required to enable alert originators or the public to silence the audio attention signal and/or vibration cadence when they issue a missing and endangered person alert? If an alert were deliverable without the audio attention signal and/or without the vibration cadence, would Alert Originators be more likely to use WEA when a person was missing and/or endangered?

8. *Ashanti Alerts*. Enacted in 2018, the Ashanti Alert Act was named in honor of Ashanti Billie, a 19-year-old woman who was abducted in Virginia and found dead in North Carolina in 2017. Ashanti Alerts are intended to aid in the search and recovery of missing persons over the age of 17 who fall outside the scope of America's Missing: Broadcast Emergency Response (AMBER) Alerts and Silver Alerts. The Ashanti Alert Act required the DOJ to designate a National Ashanti Alert Coordinator—the Bureau of Justice Assistance (BJA)—to, among other things, work with state and Tribal authorities to encourage the enhancement or development of

Ashanti Alert plans within their jurisdiction and establish voluntary guidelines to use in creating plans that will promote a compatible and integrated network of Ashanti Alert plans throughout the United States. The BJA also must coordinate and consult with the Federal Communications Commission and other federal agencies in carrying out activities under the Act. The BJA with the DOJ are to establish a national communications network to provide assistance to regional and local search efforts for missing adults through the initiation, facilitation, and promotion of local elements of the network, in coordination with states, Tribal authorities, units of local government, law enforcement agencies, and other concerned entities with expertise in providing services to adults. The Commission seeks comment on whether the EAS could accommodate missing and endangered person alerts, including Ashanti Alerts, as effectively as it does other types of alerts. Are there constraints that would impede the ability of the EAS to contain the information required under the Ashanti Alert Act and envisioned by BJA guidance? Can the relevant information be communicated within a two-minute time frame, for example?

9. Would having an MEP event code be consistent with BJA's guidance, and allow for the issuing of "Ashanti Alerts", *i.e.*, alerts related to (1) individuals over the age of 17; (2) missing adults who have special needs or circumstances; and (3) missing adults who are endangered or who have been abducted or kidnapped. Should the MEP event code be limited to the criteria for an Ashanti Alert? How would limiting this event code to Ashanti Alert criteria impact missing and endangered person alerts that did not meet the criteria of an AMBER alert or an Ashanti Alert? Should other criteria be considered as well? Could such an event code be used for missing children events that do not meet the criteria for an AMBER alert? Could such an event code be used for Silver Alerts? What are the benefits of having one event code for all missing and endangered person events that do not meet the criteria of an AMBER alert vis a vis one more limited in scope? What are the consequences of only having one such code?

10. Several states, territories, and Tribal governments already have Ashanti Alert plans, Ashanti Alert Act compliant plans, missing and endangered person plans, or have legislative proposals for such plans. Additionally, there are regional alert networks that operate independently of

State Networks; those regional programs must be contacted separately to request activation. The implementation of these plans vary, and the current patchwork of notification systems may cause delay in the dissemination of these alerts. The Commission seeks comment on how many states, territories, and Tribal governments already have such plans or proposals in place, and for those plans already in place, how are they working in practice? Where such plans or proposals exist, what are their core components? What are the experiences of states, territories, and Tribal governments that have adopted missing and endangered person alerts or “Ashanti Alerts” as part of their alerting systems?

11. Currently, alert originators who issue missing and endangered person alerts that do not meet the criteria of an AMBER Alert use a variety of event codes to issue such alerts. The “Local Area Emergency” and “Law Enforcement Warning” event codes are the most commonly used event codes for these incidents. The Commission seeks comment on the distribution methods states, territories, and Tribal governments currently employ to deliver alerts for missing and endangered persons or “Ashanti Alerts”. To the extent they use different distribution methods to deliver these alerts, do the various distribution methods detract from the effectiveness of the alerts? To what extent do EAS Participants retransmit generic event codes, such as Civil Emergency Message (CEM) or Law Enforcement Warning (LEW) under which non-AMBER missing and endangered person alerts are currently sent? Will creating a specific MEP event code for missing and endangered persons be beneficial to alert originators who may use it and EAS Participants who may retransmit it? Would a dedicated MEP event code help ensure that Ashanti Alerts and related outreach are undertaken in a consistent manner nationally?

12. Will creating such an event code facilitate the transmission of Ashanti Alerts and thus promote the establishment, development, enhancement, and integration of a national communications network to provide assistance to regional and local search efforts for missing adults, as called for in the Ashanti Alert Act? The Ashanti Alert Act encourages states, territories, and Tribal governments to develop or enhance their Ashanti Alert or missing and endangered person plans. It also seeks to facilitate the integration of those plans into a national network to assist and optimize regional and local search efforts for missing or

endangered adults. By adopting a new “MEP” event code, will it facilitate the rapid and coordinated delivery of alert notifications about missing and endangered persons to the public in a uniform and consistent manner? The Commission seeks comment on this approach.

13. What actions have states, territories, and Tribal governments taken to educate the public on missing and endangered person and Ashanti Alerts and the appropriate responses to those alerts. Are there model Public Service Announcements (PSAs) in use that educate the public about missing and endangered persons or Ashanti Alerts? How often have such alerts been activated and through what means or media have they been issued? How has the public reacted to these alerts? Provide examples of all available public responses to missing and endangered person and Ashanti Alerts that have been delivered since the adoption of the Ashanti Alert Act and BJA’s Ashanti Alert guidance.

14. Would the adoption of MEP as a dedicated EAS event code encourage EAS Participants to deliver missing and endangered person alerts, including Ashanti Alerts? Would MEP as a dedicated EAS event code provide a central and organizing element for missing and endangered person and Ashanti Alert plans across the nation and, thus, facilitate the work of the National Ashanti Alert Network? How might the public respond to an MEP event code? Would establishing MEP as a dedicated EAS event code allow law enforcement to provide a warning that the public recognizes immediately as an alert for a missing or endangered person? Would a dedicated event code convey the appropriate sense of urgency to the public and galvanize the public awareness necessary to aid in the finding of missing or endangered adults? Would a dedicated event code facilitate consistent and effective public outreach educating the public to recognize and respond to “Ashanti Alerts”?

15. Would the availability of a dedicated EAS event code would promote the adoption or enhancement of Ashanti Alerts or missing and endangered person alerts throughout the nation? Would a dedicated EAS event code help integrate existing plans into a coordinated national network? Would the ability of law enforcement agencies to use existing EAS distribution networks alleviate any burden associated with designing and implementing individual missing and endangered person or Ashanti Alert plans? Would the implementation of a

dedicated EAS event code encourage states and Tribal governments that do not have missing and endangered person or Ashanti Alert plans to adopt one? Are there widely-recognized “best practices” for Ashanti Alert plans? If so, to what extent would the adoption of the proposed MEP event code enhance the effectiveness of those “best practices”?

16. Currently, EAS Alerts are limited to the geographic contours and service areas of broadcasters and cable service providers. Are there any geographic or service area limitations that would pose challenges to the effectiveness of missing and endangered person alerts, including Ashanti Alerts, which—per statutory requirements—must be delivered to “geographic areas that the missing adult could reasonably reach, considering the circumstances and physical and mental condition of the missing adult, the modes of transportation available to the missing adult, and the circumstances of the disappearance?” How should the term “reasonably” be construed in this context and how does such construction impact EAS Participants’ ability to disseminate these alerts? Are there differences between EAS Participants (e.g., small versus large cable operators) that affect the ability to target geographic areas as prescribed for the alerts?

17. Has the lack of a dedicated EAS event code impeded the adoption of missing and endangered person or Ashanti Alert plans? Would utilizing the EAS structure help integrate existing plans into a coordinated national framework? Would integrating existing missing and endangered person and Ashanti Alert plans into the EAS structure help individual states, territories, and Tribal governments work together when missing adults have been, or potentially have been transported across state lines, as envisioned by the Ashanti Alert Act?

18. Would a dedicated EAS event code help save the lives? For example, would using a dedicated EAS event code facilitate faster information sharing and dissemination of information to the public? Could it potentially provide an additional path of communication to others who may be best positioned to quickly provide assistance, including the media and off-duty public safety official? Could this save lives, not just of those whose disappearance prompts an alert but of others who might otherwise be harmed by the emergency? Comment are sought on potential benefits and cost reductions.

19. *Savanna’s Act*. Savanna’s Act was named after Savanna LaFontaine-

Greywind, a pregnant member of the Spirit Lake Tribe who was found brutally murdered in the Red River of North Dakota in 2017. The Act sought to clarify federal, state, Tribal authority, and local law enforcement responsibilities with respect to the collecting and sharing of data related to missing or murdered Indigenous persons, regardless of whether they reside on or off Tribal land. It directs U.S. attorneys to develop regionally appropriate guidelines for responding to missing or murdered Indigenous persons.

20. *Missing and Endangered Indigenous Persons.* Native communities have historically been disproportionately affected by missing person cases, with Native Americans constituting 2.5% of all missing person cases despite comprising only 1.2% of the U.S. population. Should the Commission consider an additional dedicated EAS event code for missing Indigenous persons on and off Tribal land? Would establishing a dedicated event code for missing Indigenous persons aid in resolving this disparity? Would such a dedicated event code help law enforcement in locating missing Indigenous persons? Who would be considered “Indigenous” for use purposes of this code? Alternatively, would it be more effective to use the proposed MEP code, rather than using a separate dedicated event code?

21. *Tribal Consultation.* The Commission anticipates that any revisions to the rules implementing a dedicated “MEP” event code would benefit from Tribal consultation. The Office of Native Affairs and Policy (ONAP) is directed to coordinate government-to-government consultation with Tribal Nations about the topics raised in this *NPRM*. ONAP will announce the commencement of a Tribal consultation via public notice. Tribal Nations may also notify ONAP of their desire for consultation via email to [Native@fcc.gov](mailto:Native@fcc.gov).

22. The Commission seeks comment to ensure that missing and endangered person alerts, including Ashanti Alerts, will provide for the protection of the civil liberties and sensitive medical information of missing adults as required by the Ashanti Alert Act. Are there any particular privacy or other civil liberties concerns that should be considered in implementing the proposed MEP event code? How can alerts comply with all applicable federal, state, Tribal and local privacy laws and regulations? Are there particular standards that should be adopted in order to provide protections against domestic violence? Comments

are sought on these and any other safety, privacy and civil liberties concerns.

23. *Timeframe.* The Commission seeks comment on the timeframe in which MEP as a dedicated EAS event code for missing and endangered person alerts, including Ashanti Alerts, could be implemented. The Commission proposes that EAS equipment manufacturers integrate the MEP event code for missing and endangered person alerts, including Ashanti Alerts, into equipment yet to be manufactured and make necessary software upgrades available to EAS Participants, no later than twelve months from the effective date of the rules. Comments are sought on this proposal and, if commenters disagree with the analysis or proposed timeframe, please specify alternatives and the specific technical bases for such alternatives.

24. The Commission proposes allowing EAS Participants to implement the new event codes on a voluntary basis through new equipment programmed to contain the code or through a software upgrade to install the code into equipment already in place. This approach has been taken in the past when adopting other new EAS event codes, and the record does not reflect any basis to take a different approach. Comments are sought on this approach.

25. *Benefits and costs.* Comments are requested on the total benefits and costs associated with the proposed addition of the MEP event code to the EAS. The Commission seeks comment on the costs of the proposed event code. For those states, territories, or Tribal governments that have adopted missing and endangered person or Ashanti Alert plans, have those alerts been effective in locating missing, abducted, and/or endangered persons? Would a dedicated EAS code produce a more efficient result than utilizing an existing event code or an alternate delivery mechanism?

26. Would the adoption of a dedicated EAS event code help facilitate a partnership similar to AMBER Alerts? Is statistical information concerning AMBER Alerts relevant to missing and endangered person alerts? Is it reasonable to expect the success rate for missing and endangered person alerts, including Ashanti Alerts, to be similar to AMBER Alerts? Would the adoption of a dedicated EAS event code reduce the time to find a lost or abducted person?

27. The Commission believes that adopting a dedicated EAS event code, “MEP”, presents technical issues similar to the ones the Commission encountered when creating “BLU Alert”

codes, and that the alert codes could be implemented by EAS Participants via minimally burdensome and low-cost software downloads. For those reasons, the Commission expects that the same costs would apply to the adoption of an MEP event code for missing and endangered persons and concludes that the implementation costs for adding a dedicated MEP event code would be approximately \$12 million, adjusted for inflation. Comments are sought on this analysis and on the cost to EAS equipment manufacturers to create software updates, test these updates, supply them to their customers, oversee these updates, and provide any related customer support.

28. EAS Participants are required to have equipment that would be capable of being upgraded by software to accommodate EAS modifications. Could a new event code be bundled with a software upgrade that EAS Participants would install during the regular course of business? Comments are sought on this analysis.

29. Are there costs or benefits that should be considered that are not captured in the above discussion? If commenters disagree with these analysis or calculations, they should specify alternative methods and the specific technical bases for such alternatives. The Commission seeks comment on whether there are alternative or additional measures that could be taken to improve the introduction of missing and endangered person alerts, including Ashanti Alerts, over the EAS to promote the important public policy objective of enabling a rapid and coordinated response to incidents involving missing and endangered persons.

#### **Initial Regulatory Flexibility Analysis**

30. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *NPRM*. 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 specified in the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

31. *Legal Basis.* Proposed action is authorized pursuant to §§ 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), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615.

32. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* 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 proposed rules, if adopted. 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).

33. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* These actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

34. Next, the type of small entity described as a “small organization” is generally any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

35. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. U.S. Census Bureau data from the 2017 Census of Governments

indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

36. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, most of these providers can be considered small entities.

37. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum encompasses services in the 1850–1910 and 1930–1990 MHz bands. The closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

38. Based on Commission data as of November 2021, there were approximately 5,060 active licenses in the Broadband PCS service. The Commission’s small business size standards with respect to Broadband PCS involve eligibility for bidding credits and installment payments in the auction of licenses for these services. In auctions for these licenses, the Commission defined “small business” as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding \$40 million for the preceding three years, and a “very small business” as an entity that, together with its affiliates and controlling interests, has had average annual gross revenues not exceeding \$15 million for the preceding three years. Winning bidders claiming small business credits won Broadband PCS licenses in C, D, E, and F Blocks.

39. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these, it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA’s small business size standard at this time.

40. *Narrowband Personal Communications Services.* Narrowband Personal Communications Services (*Narrowband PCS*) are PCS services operating in the 901–902 MHz, 930–931 MHz, and 940–941 MHz bands. PCS services are radio communications that encompass mobile and ancillary fixed communication that provide services to individuals and businesses and can be integrated with a variety of competing networks. Wireless Telecommunications Carriers (*except Satellite*) is the closest industry with a SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

41. According to Commission data as of December 2021, there were approximately 4,211 active *Narrowband PCS* licenses. The Commission's small business size standards with respect to *Narrowband PCS* involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of these licenses, the Commission defined a "small business" as an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A "very small business" is defined as an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. Pursuant to these definitions, 7 winning bidders claiming small and very small bidding credits won approximately 359 licenses. One of the winning bidders claiming a small business status classification in these *Narrowband PCS* license auctions had an active license as of December 2021.

42. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

43. *Wireless Communications Services*. *Wireless Communications Services (WCS)* can be used for a variety of fixed, mobile, radiolocation, and digital audio broadcasting satellite services. *Wireless spectrum* is made available and licensed for the provision of *wireless communications services* in several frequency bands subject to Part 27 of the Commission's rules. *Wireless Telecommunications Carriers (except Satellite)* is the closest industry with a SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the

SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

44. The Commission's small business size standards with respect to WCS involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in WCS. When bidding credits are adopted for the auction of licenses in WCS frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in the designated entities section in Part 27 of the Commission's rules for the specific WCS frequency bands.

45. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

46. *700 MHz Guard Band Licensees*. The 700 MHz Guard Band encompasses spectrum in 746–747/776–777 MHz and 762–764/792–794 MHz frequency bands. *Wireless Telecommunications Carriers (except Satellite)* is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

47. According to Commission data as of December 2021, there were approximately 224 active 700 MHz Guard Band licenses. The Commission's small business size standards with respect to 700 MHz Guard Band licensees involve eligibility for bidding credits and installment payments in the

auction of licenses. For the auction of these licenses, the Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years, and a "very small business" an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years. Pursuant to these definitions, five winning bidders claiming one of the small business status classifications won 26 licenses, and one winning bidder claiming small business won two licenses. None of the winning bidders claiming a small business status classification in these 700 MHz Guard Band license auctions had an active license as of December 2021.

48. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

49. *Lower 700 MHz Band Licenses*. The lower 700 MHz band encompasses spectrum in the 698–746 MHz frequency bands. Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation; fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services. *Wireless Telecommunications Carriers (except Satellite)* is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size

standard, the Commission estimates that a majority of licensees in this industry can be considered small.

50. According to Commission data as of December 2021, there were approximately 2,824 active Lower 700 MHz Band licenses. The Commission's small business size standards with respect to Lower 700 MHz Band licenses involve eligibility for bidding credits and installment payments in the auction of licenses. For auctions of Lower 700 MHz Band licenses the Commission adopted criteria for three groups of small businesses. A very small business was defined as an entity that, together with its affiliates and controlling interests, has average annual gross revenues not exceeding \$15 million for the preceding three years, a small business was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding \$40 million for the preceding three years, and an entrepreneur was defined as an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding \$3 million for the preceding three years. In auctions for Lower 700 MHz Band licenses seventy-two winning bidders claiming a small business classification won 329 licenses, twenty-six winning bidders claiming a small business classification won 214 licenses, and three winning bidders claiming a small business classification won all five auctioned licenses.

51. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

52. *Upper 700 MHz Band Licenses.* The upper 700 MHz band encompasses spectrum in the 746–806 MHz bands. Upper 700 MHz D Block licenses are nationwide licenses associated with the 758–763 MHz and 788–793 MHz bands. Permissible operations in these bands include flexible fixed, mobile, and broadcast uses, including mobile and other digital new broadcast operation;

fixed and mobile wireless commercial services (including FDD- and TDD-based services); as well as fixed and mobile wireless uses for private, internal radio needs, two-way interactive, cellular, and mobile television broadcasting services. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with a SBA small business size standard applicable to licenses providing services in these bands. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

53. According to Commission data as of December 2021, there were approximately 152 active Upper 700 MHz Band licenses. The Commission's small business size standards with respect to Upper 700 MHz Band licenses involve eligibility for bidding credits and installment payments in the auction of licenses. For the auction of these licenses, the Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years, and a "very small business" an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years. Pursuant to these definitions, three winning bidders claiming very small business status won five of the twelve available licenses.

54. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

55. *Advanced Wireless Services (AWS)—(1710–1755 MHz and 2110–2155 MHz bands (AWS-1); 1915–1920*

*MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS-2); 2155–2175 MHz band (AWS-3); 2000–2020 MHz and 2180–2200 MHz (AWS-4)).* Spectrum is made available and licensed in these bands for the provision of various wireless communications services. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with a SBA small business size standard applicable to these services. The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

56. According to Commission data as of December 2021, there were approximately 4,472 active AWS licenses. The Commission's small business size standards with respect to AWS involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of AWS licenses, the Commission defined a "small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$40 million, and a "very small business" as an entity with average annual gross revenues for the preceding three years not exceeding \$15 million. Pursuant to these definitions, 57 winning bidders claiming status as small or very small businesses won 215 of 1,087 licenses. In the most recent auction of AWS licenses 15 of 37 bidders qualifying for status as small or very small businesses won licenses.

57. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

58. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint

Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and “wireless cable,” transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.

59. In light of the use of wireless frequencies by BRS and EBS services, the closest industry with an SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

60. According to Commission data as December 2021, there were approximately 5,869 active BRS and EBS licenses. The Commission’s small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed \$3 million and did not exceed \$15 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed \$15 million and did not exceed \$40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding \$3 million for the preceding three years. Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder

claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses. One of the winning bidders claiming a small business status classification in the BRS license auction has an active license as of December 2021.

61. The Commission’s small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$20 million for the preceding five (5) years. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time it is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA’s small business size standard.

62. *The Educational Broadcasting Services.* Cable-based educational broadcasting services fall under the broad category of the Wired Telecommunications Carriers industry. The Wired Telecommunications Carriers 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.

63. The SBA small business size standard for this industry classifies businesses having 1,500 or fewer

employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this total, 2,964 firms operated with fewer than 250 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. Additionally, according to Commission data as of December 2021, there were 4,477 active EBS licenses. The Commission estimates that the majority of these licenses are held by non-profit educational institutions and school districts and are likely small entities.

64. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

65. *Software Publishers.* This industry comprises establishments primarily engaged in computer software publishing or publishing and reproduction. Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers. These establishments may design, develop, and publish, or publish only. The SBA small business size standard for this industry classifies businesses having annual receipts of \$41.5 million or less as small. U.S. Census Bureau data for 2017 indicate that 7,842 firms in this industry operated for the entire year. Of this number 7,226 firms had revenue of less than \$25 million. Based on this data, the Commission concludes that a majority of firms in this industry are small.

66. *Noncommercial Educational (NCE) and Public Broadcast Stations.* Noncommercial educational broadcast stations and public broadcast stations are television or radio broadcast stations

which under the Commission's rules are eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and are owned and operated by a public agency or nonprofit private foundation, corporation, or association; or are owned and operated by a municipality which transmits only noncommercial programs for education purposes.

67. The SBA small business size standards and U.S. Census Bureau data classify radio stations and television broadcasting separately and both categories may include both noncommercial and commercial stations. The SBA small business size standard for both radio stations and television broadcasting classify firms having \$41.5 million or less in annual receipts as small. For Radio Stations, U.S. Census Bureau data for 2017 show that 1,879 of the 2,963 firms that operated during that year had revenue of less than \$25 million per year. For Television Broadcasting, U.S. Census Bureau data for 2017 show that 657 of the 744 firms that operated for the entire year had revenue of less than \$25,000,000. While the U.S. Census Bureau data does not indicate the number of non-commercial stations, it is estimated that under the applicable SBA size standard the majority of noncommercial educational broadcast stations and public broadcast stations are small entities.

68. According to Commission data as of March 31, 2022, there were 4,503 licensed noncommercial educational radio and television stations. In addition, the Commission estimates as of March 31, 2022, there were 384 licensed noncommercial educational (NCE) television stations, 383 Class A TV stations, 1,840 LPTV stations and 3,231 TV translator stations. The Commission does not compile and otherwise does not have access to financial information for these stations that permit it to determine how many stations qualify as small entities under the SBA small business size standards. However, given the nature of these services, it is presumed that all noncommercial educational and public broadcast stations qualify as small entities under the above SBA small business size standards.

69. *Radio Stations.* This industry is comprised of "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 small business size standard for this industry classifies firms having \$41.5 million or less in

annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than \$25 million per year. Based on this data and the SBA's small business size standard, the Commission estimates a majority of such entities are small entities.

70. The Commission estimates that as of December 31, 2023, there were 4,444 licensed commercial AM radio stations and 6,663 licensed commercial FM radio stations, for a combined total of 11,107 commercial radio stations. Of this total, 11,105 stations (or 99.98%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on January 9, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of December 31, 2023, there were 4,286 licensed noncommercial (NCE) FM radio stations, 1,967 low power FM (LPFM) stations, and 8,927 FM translators and boosters. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

71. The Commission notes that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected by the action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of "small business" requires that an 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 radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of "small business" is that the entity must be

independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

72. *FM Translator Stations and Low Power FM Stations.* FM translators and Low Power FM Stations are classified in the industry for Radio Stations. The Radio Stations industry 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 small business size standard for this industry classifies firms having \$41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated during that year. Of that number, 1,879 firms operated with revenue of less than \$25 million per year. Therefore, based on the SBA's size standard the Commission concludes that the majority of FM Translator stations and Low Power FM Stations are small. Additionally, according to Commission data, as of December 31, 2023, there were 8,927 FM Translator Stations and 1,967 Low Power FM licensed broadcast stations. The Commission does not compile and otherwise does not have access to information on the revenue of these stations that would permit it to determine how many of the stations would qualify as small entities. For purposes of this regulatory flexibility analysis, it presumes the majority of these stations are small entities.

73. *Television Broadcasting.* This industry is comprised of "establishments primarily engaged in broadcasting images together with sound." These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having \$41.5 million or less in annual receipts as small. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than \$25,000,000. Based on this data the Commission estimates that the majority

of television broadcasters are small entities under the SBA small business size standard.

74. As of December 31, 2023, there were 1,380 licensed commercial television stations. Of this total, 1,261 stations (or 91.4%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on January 9, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of September 30, 2023, there were 383 licensed noncommercial educational (NCE) television stations, 379 Class A TV stations, 1,878 LPTV stations and 3,121 TV translator stations. The Commission, however, does not compile and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

75. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA small business size standard for this industry classifies firms with annual receipts less than \$41.5 million as small. Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year. Of that number, 149 firms operated with revenue of less than \$25 million a year and 44 firms operated with revenue of \$25 million or more. Based on this data, the Commission estimates that the majority of firms operating in this industry are small.

76. *Cable System Operators (Rate Regulation Standard).* The Commission has developed its own small business size standard 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. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

77. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one 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." For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 498,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator. Based on industry data, only six cable system operators have more than 498,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. However, the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Therefore, the Commission is unable to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act at this time.

78. *Satellite Telecommunications.* This industry comprises firms "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." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million.

Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

79. *All Other Telecommunications.* This industry is comprised of 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. Providers of internet services (e.g., dial-up ISPs) or voice over internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

80. *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 is included in the Wired Telecommunications Carriers industry which 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 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.

81. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service—DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation. DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, the Commission must conclude based on internally developed data, in general DBS service is provided only by large firms.

82. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The NPRM initiates a proceeding to revise the Commission's EAS rules to adopt a new EAS event code, MEP, which may require new reporting, recordkeeping, and other compliance obligations for small and other EAS Participants that voluntarily deliver emergency alerts issued by federal, state, local, territorial, and Tribal authorities. Specifically, the NPRM proposes that EAS participants limit alerts to include only the appropriate information relating to the special needs of the missing adult, and shared in geographic areas where the missing adult could reasonably reach. The NPRM also seeks comment on how the term "reasonable" may be construed in this context between small and large EAS participants. The NPRM proposes that EAS participants be allowed to upgrade equipment on a voluntary basis through new equipment programmed to contain the code or through a software upgrade to install the code into existing equipment, which may allow flexibility for small entities to comply. Under the proposed rules, EAS equipment manufacturers would need to update their equipment to integrate the MEP event code for Ashanti Alerts in new equipment and through software upgrades within twelve months of the effective date of the rules. While event codes such as MEP are not required under the Commission's rules for wireless providers that provide WEA,

the NPRM seeks comment on whether adoption of a dedicated EAS code for Ashanti Alerts would have any effect on WEA, or whether guidance on classification of Ashanti Alerts would be helpful for small and other CMRS providers and WEA stakeholders.

83. The Commission estimates that broadcast and cable providers may need one hour to download and install a software update specific to the MEP event code. EAS Participants are currently required to have equipment that would be capable of being upgraded by software to accommodate EAS modifications such as those proposed in the NPRM, and the Commission sees no reason why the a new event code could not be bundled with minimally burdensome, low-cost software upgrades that small and other EAS Participants would otherwise install during the regular course of business. As such, this should diminish the burden on small entities to comply with the proposed rules. The Commission anticipates the information received in comments including where requested, cost and benefit analyses, will help it identify and evaluate relevant compliance matters for small entities, including compliance costs for hiring professional staff, if necessary, and other burdens that may result from the proposals and inquiries made in the NPRM.

84. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities that it has considered in reaching its proposed 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 or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities."

85. The rule changes contemplated by the NPRM would adopt MEP as a new EAS event code for Ashanti Alerts, and require implementation by small and other participating EAS Participants and CMRS Providers on a voluntary basis through equipment already in place (or a software upgrade thereof). Among the alternatives presented in the NPRM is whether there are existing EAS event

codes that could effectively transmit Ashanti Alerts. The costs to EAS Participants associated with implementing the codes contained in the proposed rule changes are expected to be *de minimis* since the Commission anticipates compliance costs would be limited to the cost of labor for downloading software updates, to the extent any updates are required at all. Nevertheless, the Commission has invited comment on the costs associated with implementation of the proposed Ashanti Alert code in order to more fully understand the impact of the proposed action and assess whether any action is needed to assist small entities. Similarly, while the Commission believes that the costs incurred by equipment manufacturers to write a few lines of code to implement the Ashanti Alert code will be minimal, it has invited comments on the cost to EAS equipment manufacturers of creating software updates, testing these updates, supplying them to their customers, and providing any related customer support. Additionally, the Commission has invited commenters to propose steps that it may take to further minimize any significant economic impact on small entities. When considering proposals made by other parties, commenters are invited to propose other alternatives that serve the goals of the Commission's proposals while minimizing impacts to small entities.

86. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

#### List of Subjects in 47 CFR Part 11

Radio, Television.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison Officer, Secretary.*

#### 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), 606, 1201, 1206.

■ 2. Amend § 11.31 by:

- a. Designating the table immediately following paragraph (d)(1) as table 1 to paragraph (d)(1); and
- b. Designating the table immediately following paragraph (e) as table 2 to paragraph (e); and

- c. Revising table 2 to paragraph (e); and
- d. Designating the table immediately following paragraph (f) as table 3 to paragraph (f).

The revision reads as follows:

**§ 11.31 EAS protocol.**

\* \* \* \* \*  
(e) \* \* \*

**TABLE 2 TO PARAGRAPH (e)**

Nature of activation	Event codes
<b>National Codes (Required):</b>	
Emergency Action Notification (National only)	EAN.
National Periodic Test .....	NPT.
Required Monthly Test .....	RMT.
Required Weekly Test .....	RWT.
<b>State and Local Codes (Optional):</b>	
Administrative Message .....	ADR.
Avalanche Warning .....	AVW.
Avalanche Watch .....	AVA.
Blizzard Warning .....	BZW.
Blue Alert .....	BLU.
Child Abduction Emergency .....	CAE.
Civil Danger Warning .....	CDW.
Civil Emergency Message .....	CEM.
Coastal Flood Warning .....	CFW.
Coastal Flood Watch .....	CFA.
Dust Storm Warning .....	DSW.
Earthquake Warning .....	EQW.
Evacuation Immediate .....	EVI.
Extreme Wind Warning .....	EWV.
Fire Warning .....	FRW.
Flash Flood Warning .....	FFW.
Flash Flood Watch .....	FFA.

**TABLE 2 TO PARAGRAPH (e)—  
Continued**

Nature of activation	Event codes
Flash Flood Statement .....	FFS.
Flood Warning .....	FLW.
Flood Watch .....	FLA.
Flood Statement .....	FLS.
Hazardous Materials Warning .....	HMW.
High Wind Warning .....	HWW.
High Wind Watch .....	HWA.
Hurricane Warning .....	HUW.
Hurricane Watch .....	HUA.
Hurricane Statement .....	HLS.
Law Enforcement Warning .....	LEW.
Local Area Emergency .....	LAE.
Missing and Endangered Persons	MEP.
Network Message Notification .....	NMN.
911 Telephone Outage Emergency.	TOE.
Nuclear Power Plant Warning .....	NUW.
Practice/Demo Warning .....	DMO.
Radiological Hazard Warning .....	RHW.
Severe Thunderstorm Warning .....	SVR.
Severe Thunderstorm Watch .....	SVA.
Severe Weather Statement .....	SVS.
Shelter in Place Warning .....	SPW.
Special Marine Warning .....	SMW.
Special Weather Statement .....	SPS.
Storm Surge Watch .....	SSA.
Storm Surge Warning .....	SSW.
Tornado Warning .....	TOR.
Tornado Watch .....	TOA.
Tropical Storm Warning .....	TRW.
Tropical Storm Watch .....	TRA.
Tsunami Warning .....	TSW.
Tsunami Watch .....	TSA.
Volcano Warning .....	VOW.

**TABLE 2 TO PARAGRAPH (e)—  
Continued**

Nature of activation	Event codes
Winter Storm Warning .....	WSW.
Winter Storm Watch .....	WSA.

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