

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FCC 94-288

In the Matter of)
)
Amendment of Part 73,) FO Docket 91-301
Subpart G, of the Commission's) FO Docket 91-171
Rules Regarding the)
Emergency Broadcast System)

**REPORT AND ORDER AND
FURTHER NOTICE OF PROPOSED RULE MAKING**

Adopted: November 10, 1994 Released: December 9, 1994

Comments Due: February 22, 1995

Reply Comments Due: March 24, 1995

By the Commission:

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I. SUMMARY

1. By this action, we establish the Emergency Alert System (EAS), which will replace the existing Emergency Broadcast System (EBS). We require broadcast stations and cable systems to install and operate new equipment for national alerts while relaxing some requirements for noncommercial educational Class D FM stations and low power television stations. Satellite, Direct Broadcast Satellite (DBS), telephone and cellular carriers, and other service providers are encouraged to voluntarily participate. A standard protocol and new digital codes are adopted that will facilitate different technologies using the new system. Finally, procedures are streamlined so that more participants can work together effectively during emergencies.

2. In a Further Notice of Proposed Rule Making ("FNPRM") we seek comment on how services such as the Multipoint Distribution Service (MDS)¹, Satellite Master Antenna Television (SMATV), and Video Dial Tone should participate in the new EAS. We also seek further comment on whether we should waive our EAS requirements for a defined class of "small" cable systems.

II. BACKGROUND

3. In 1951 President Harry S Truman established CONELRAD (Control of Electromagnetic Radiation) as the first national alerting system. Under CONELRAD, AM radio stations were required to broadcast only on 640 or 1240 kHz during an emergency alert to the public so that enemy missiles could not use transmissions from broadcast stations as a guide for their targets.² By the early 1960's the development of missile guidance systems made the two channel limitation obsolete.

4. In 1963 President John F. Kennedy established the Emergency Broadcast System and allowed stations to transmit on their normal frequencies during an emergency. Technical requirements for EBS equipment were developed in the 1960's and included an audio/analog two-tone alerting signal. It was not until the mid-1970's, however, that the Commission amended its rules to replace the CONELRAD signalling technique with the existing EBS audio signal. In 1976, a Memorandum of Understanding (MOU) between the Federal Communications Commission (FCC or Commission), the Federal Emergency Management Agency

¹ These frequencies when used to deliver video programming are referred to as "wireless cable" services. See 47 C.F.R. Part 21, Subpart K.

² See Executive Order 10312, Dec. 10, 1951. See also FO Docket 91-171, 6 FCC Rcd 4264 (1991).

(FEMA), and the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service (NWS) endorsed the two-tone EBS audio signal for use in state and local emergencies. This MOU was updated in 1982 to reflect the reorganization of FEMA.³

5. Our authority to regulate emergency broadcasting emanates primarily from Sections 303(r) and 706(c) of the Communications Act, 47 U.S.C. §§ 303(r) and 706(c). Section 303(r) is a general grant of rulemaking authority to the Commission. Section 706 grants specific, communications-related powers to the President in time of war or national emergency. In such event, the President may, for example, take control of, or suspend or amend the rules and regulations applicable to, any or all stations within the Commission's jurisdiction. Our EBS rules are designed to enable the President to exercise these powers quickly and efficiently.

6. Our authority to regulate participation by cable systems in the emergency alerting process, on the other hand, stems primarily from Section 624(g) of the Communications Act, 47 U.S.C. § 544(g), *see* paras. 50-65, *infra*. That provision requires the Commission to ensure that cable viewers are afforded the same access to emergency communications as broadcast viewers and listeners. We also note that the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*, aims to "make all facets of our society fully accessible to individuals with disabilities."⁴ Our rules adopted herein comport with that goal as well.

A. The current EBS

7. The current EBS is composed of technical equipment and an operational structure which provides guidance to those broadcast stations and others who participate in EBS. It is a joint government-industry effort which responds to a Presidential requirement to address the entire nation on very short notice because of a grave national threat. It uses the facilities of the communications industry, including 13 radio and 5 television networks, 12 cable networks, the Associated Press, Reuters and United Press International wire services, and over 13,000 broadcast stations.⁵

³ See MOU dated June 28, 1976; revised April 21, 1982.

⁴ Comments of the National Center for Law and Deafness, November 24, 1993, at 5.

⁵ The Broadcast Station Protection Program (BSPP) is a program funded by the Federal Emergency Management Agency (FEMA) that enhances the operating capability of key EBS stations. The program provides these stations with emergency generators, remote

8. Technically, EBS is an analog transmission system in which broadcasters are required to have specified equipment and relies upon operator control. During an alert, EBS equipment transmits audio EBS messages after receipt of a two-tone attention signal, which activates the decoder/receiver at a broadcast radio or TV station. The EBS station operator must listen to the audio message coming out of the speaker (of the decoder/receiver) to determine the reason the EBS signal has been transmitted.⁶ If the audio message was a test of the system, the test date and time are logged. If the message is for a national emergency, they must alert the public. If the message is for a state or local emergency, responding personnel have a number of options, including ignoring or rebroadcasting the message.

9. The Commission requires the use of EBS only in the event of a national emergency. State and local authorities, however, may request use of the EBS to provide early warning to communities about regional, state, county, and local emergencies. More than 20,000 activations of the EBS have been reported since 1975⁷, and every state and territory has used it. State and Local Emergency Communications Committees (SECC and LECC)⁸ are responsible for the development of plans which detail procedures for stations and officials to follow for activation of the EBS. Broadcast stations have voluntarily made increasing use of EBS since the system was allowed to be used for local emergencies.

10. The current EBS has several significant drawbacks. First, the equipment relies on the broadcaster who receives the initial alert to alert other broadcasters in a "daisy chain."⁹

pickup units, electromagnetic pulse protection, and other facility add-ons in order to enhance the stations' ability to continue to operate in an emergency. There are over 600 broadcast stations in the BSPP.

⁶ The two-tone Attention Signal generated by the encoder does not carry any intelligent information. It merely turns on or activates the decoder/receiver.

⁷ The Commission does not require stations to report EBS activations. Our figures represent only those activations which have been voluntarily reported. We believe, based on informal conversations with licensees, that thousands of additional alerts have been issued.

⁸ See Section V.B. in this Order.

⁹ "Daisy chain" monitoring refers to the present day system where key stations relay EBS messages with the two-tone signal from one station to another.

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