Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System	)	PS Docket No. 15-94
	)	
	)	
Wireless Emergency Alerts	)	PS Docket No. 15-91

COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

I. INTRODUCTION AND SUMMARY

For over six decades, America's broadcasters have served as the backbone of the nation's public warning system, delivering timely emergency warnings to the public. Broadcasters also provide critical, detailed life-saving news and information before, during and after an emergency -- even when other communications platforms fail. Radio and television stations are proud to serve as "First Informers," and usually support proposals intended to improve the emergency alert system (EAS). Thus, the National Association of Broadcasters ("NAB")[1] appreciates the Federal Emergency Management Agency's (FEMA) well-intentioned recommendation that the FCC consider changes to the EAS to enable the "persistent display" of alert information or notifications of emergencies that require immediate action by the public to mitigate the loss of life.[2] As a general matter, we agree

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

[2] *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System; Wireless Emergency Alerts*, Report and Order and Further Notice of Proposed Rulemaking, PS Docket Nos. 15-94 and 15-91, at ¶¶ 51-55 (rel. June 17, 2021) (Order or Further Notice); Federal Emergency Management Agency (FEMA) Comments on the Notice of Proposed Rulemaking to Improve the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA) at 4, PS Docket Nos. 15-94 and 15-91 (May 17, 2021) (FEMA Comments).

that more notice of an emergency should improve public safety. However, regarding FEMA's request, NAB respectfully observes certain technical challenges and practical considerations that counsel against mandating the persistent display of EAS messages, and perhaps undermine FEMA's goal of enhancing public safety. Specifically, we are unaware of an effective process for issuing, processing and most importantly, ending persistent EAS messages or related notifications. Moreover, if such a process did exist, NAB is extremely concerned that persistent notifications would interrupt broadcasters news coverage of emergencies, particularly radio stations. Broadcasters are also wary of relaying a prolonged alert that triggers "alert fatigue" and causes members of the public to tune out emergency notifications. Finally, regarding television, we submit that broadcasters' current practices of displaying an icon or bug in the corner of the screen and running a crawl during an emergency sufficiently address FEMA's goal.

II. NAB IS UNAWARE OF AN EFFECTIVE PROCESS FOR IMPLEMENTING FEMA'S LAUDABLE PROPOSAL, AND IF SUCH A PROCESS IS DEVELOPED, PERSISTENT NOTIFICATIONS MAY CAUSE CERTAIN UNWELCOME UNINTENDED CONSEQUENCES

FEMA states that the mistaken 2018 missile alert in Hawaii demonstrated that some individuals tune to a broadcast source for EAS information only after receiving initial notice of an emergency via a wireless emergency alert (WEA) or other service. However, by the time some individuals were able to tune in to their preferred radio or television station for more EAS information, the EAS announcement had already finished and the media sources had returned to normal programming. This led to some confusion and doubt about the validity of the WEA message, which may have delayed some public response to the emergency message. FEMA states that people are faster to believe that an emergency is real and relevant, and faster to react, when they receive warnings about an event from multiple

sources.[3] FEMA thus urges the FCC to consider ways to modify the EAS to enable the persistent display of EAS alerts or related notifications on EAS sources for the duration of an event to facilitate corroboration of a notice from one source (*e.g.*, WEA) with another (*e.g.*, TV), whenever they tune in to the latter.[4]

The intended benefits of FEMA's well-intentioned proposal are apparent, and broadcasters typically endorse proposals that are designed to promote public safety.[5] However, in this case, NAB foresees several obstacles and concerns that may be counter-productive to FEMA's aim.

A. An Effective Process for Implementing Persistent Alerts Is Not Available

It appears to be difficult, if not yet possible, to effectively enable persistent alerts, particularly on over-the-air radio service. First, the Integrated Public Alert and Warning System (IPAWS) was developed as a national aggregator and distributor of emergency alert messages using the digital-based Common Alerting Protocol (CAP) format over the Internet. While IPAWS can be used to simultaneously disseminate alerts to broadcasters, wireless providers and other EAS sources, it is not designed to be a full substitute for the existing legacy EAS protocol because it may be vulnerable when internet connectivity is unavailable. Therefore, broadcasters must be able to down-convert CAP-formatted messages to the legacy EAS protocol to allow compatibility with the existing analog-based daisy chain system

[3] FEMA Comments at 4; Further Notice at ¶ 51.
[4] *Id*.
[5] *See, e.g.*, Comments of the National Association of Broadcasters at 2-5, PS Docket No. 15-94 (July 31, 2017) (supporting creation of Blue Alerts); Comments of the National Association of Broadcasters at 12-25, PS Docket Nos. 15-94 and 15-91 (June 8, 2016) (supporting certain FCC proposals to improve EAS security); Comments of the National Association of Broadcasters at 1-4, PS Docket No. 15-94 (Sep. 9, 2015) (supporting addition of EAS event codes).

of EAS distribution. Once a CAP-formatted message is down-converted, much of the CAP-based extended data (*e.g.*, images, maps, etc.) is lost.[6]

Analog radio stations typically process CAP-based alerts in this manner, and while penetration of HD Radio digital radio receivers is growing, most radio listening occurs over conventional analog radio.[7] However, unlike WEAs and other CAP-formatted messages, once an EAS alert is acquired from the IPAWS EAS server and down-converted into the legacy protocol by a broadcaster, there is no way for the alert originator (*e.g.*, FEMA, state or local authority, National Weather Service) to cancel the alert.[8] Nor may a broadcaster cancel an EAS alert on their end. Thus, there would seem to be no way to ensure that an EAS alert issued with an intent to persist for the duration of an event would not remain effective for longer than necessary.

Second, NAB does not believe that a potential answer can be found in present-day consumers radio receivers. For example, the FCC asks whether so-called "smart" end-user devices that can process HD Radio may be able to effectuate persistent EAS alerts.[9] To our knowledge, HD Radio-compatible devices are also not yet capable of cancelling an EAS alert. That said, NAB strongly supports HD Radio technology and understands that some HD Radio receivers may be able to display some kind of sustained non-EAS graphic or crawl or image that could notify a listener of an ongoing emergency (without interrupting programming), until it is dismissed or snoozed by the listener. Again, however, most radio listening takes

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[6] Comments of Xperi Holding Corp. at 9, PS Docket Nos. 15-94 and 15-91 (May 11, 2021).
[7] *See, e.g.,* RadioWorld, "Dashboard Trends Raise 'Clear ROI Opportunities' for HD Radio," in Trends in Digital Radio 2021 (July 2021) (approximately 25% of FM radio stations broadcasting digital audio service) available at: https://www.radioworld.com/resource-center/ebooks/trends-in-digital-radio-2021.
[8] Further Notice at ¶ 54 n. 210.
[9] *Id*. at ¶ 54.

place on analog radios, which are largely incapable of conveying any kind of lasting EAS alert or other notifications without interrupting a radio station's content.

Accordingly, several unintended consequences could occur that might be counter-productive to FEMA's goal. For example, the FCC notes that enabling persistent alerts may create confusion when multiple or overlapping EAS alerts are issued, whether about the same event or nearby unrelated events.[10] It is uncertain how an originator would be able to switch between alerts, or how broadcasters and the public would adapt, especially during the often frantic moments of an emergency situation. We also observe that enabling persistent alerts could impede the ability of alert originators, including the President, to reissue or modify an existing alert due to the lack of synchronicity between CAP-based alerts and alerts issued through the legacy EAS system described above. Implementing FEMA's proposal therefore may constrain an alert originator's ability to react as an emergency unfolds. Such open questions could lead to confusion and imprecise information during emergencies.

B. Persistent Alerts May Interrupt, Instead of Complement, Broadcasters' News Coverage of an Emergency

Broadcasters would be wary of ceding control over their airwaves to originators of persistent EAS alerts, especially if there is unclear guidance on the duration of an alert or an establish mechanism for cancelling alerts.[11] NAB believes that many broadcasters may opt out of processing persistent EAS alerts that are issued by state or local authorities,[12] given the risk of a lengthy disruption of their news coverage of an emergency situation.

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[10] *Id*. at ¶ 53.
[11] *Id*. at ¶ 54.
[12] The FCC asks whether EAS participants should be required to process and transmit state and local persistent alerts. *Id*. at ¶ 53. Given that EAS participation is now voluntary for traditional non-persistent alerts issued by state and local authorities, and the risks and

Broadcasters are the most trusted source of news and information during emergencies. Radio and television ratings routinely spike during hurricanes and other disasters because local broadcasters are Americans' first choice for the information they need to keep safe.[13] In addition, given the strength and resiliency of the broadcast infrastructure, local radio and TV stations are often the only available communications medium during disaster situations, when cell phone and wireless networks can be unreliable. In the words of Arbitron: "When the lights go out, the radios go on."[14] Public safety authorities themselves know that radio is the single most reliable outlet for information, which is why a battery-operated radio is so important and always part of any preparedness kit recommended by FEMA, the Red Cross and other public safety organizations.[15] Indeed, Congress formally granted radio and television broadcasters "First Informer" status in 2018, facilitating broadcasters access to crisis areas for purpose of both maintaining station operations and reporting about a disaster.[16]

A persistent EAS alert could delay or interrupt a broadcaster's news coverage of an emergency, especially during the critical moments when individuals need more detailed, locally-tailored information than can be included in an EAS message. Only last month during

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challenges described above, NAB would strongly object to making participation mandatory for persistent alerts.

[13] All Access Music, "Radio Listening Explodes During Superstorm Sandy in the New York Area; Arbitron Data Releases to be Affected," (Nov. 19, 2012) available at: https://www.allaccess.com/net-news/archive/story/112711/radio-listening-explodes-during-superstorm-sandy-i.

[14] Arbitron, "Riding Out the Storm, The Vital Role of Local Radio in Times of Crisis," at 4, (Feb. 2005), available at: https://www.arbitron.com/downloads/hurricane_summary.pdf.

[15] *See, e.g.,* Larry Thomas, "Radio Plays an Important Role in Our Lives," PSC Online, available at: https://psc.apcointl.org/2011/09/21/radio-plays-an-important-role-in-our-lives/.

[16] Consolidated Appropriations Act, 2018, Pub.L. 115–141 (2018), § 302 amending 42 U.S.C. § 5189(a).

Hurricane Ida, much of the staff of WWL (FM) in New Orleans moved into the studios for nearly a week, sleeping on air mattresses, subsisting on snack foods and pulling double shifts to stay on the air and keep their listeners informed and safe. The station provided critical information like where to find gas, how to safely operate a generator and safe routes out of town, as well as allowed local public safety officials get their important messages out. The hurricane took out more than half of the cell towers in its path in Louisiana[17] and more than a million people lost electricity.[18] Perhaps most importantly, the station offered moral support and a community connection to residents still scarred by the effects of Hurricane Katrina.[19] Of course, this is only one recent example of the vital news and information that broadcasters provide during emergencies.

EAS, while an important public warning system, is primarily a "doorbell" mechanism designed to trigger public attention, provide essential information about the nature and location of an event, and spur Americans to obtain more detailed information about an emergency from a news source, such as a radio or television station. Adopting FEMA's proposal could upend this symbiotic relationship between EAS and broadcasting by disrupting public access to broadcasters' newsgathering and reporting resources.

C. The Costs of Implementing Persistent EAS Alerts Would Likely Outweigh the Benefits

[17] William Taylor Potter, "Hurricane Ida: All cellular sites down in Terrebonne, Assumption parishes," Lafayette Daily Advertiser (Sep. 1, 2021), available at: https://www.theadvertiser.com/story/news/2021/08/31/cell-service-status-ida-terrebonne-assumption-parishes/5662235001/.
[18] U.S. Energy Information Administration, "Hurricane Ida caused at least 1.2 million electricity customers to lose power," (Sep. 15, 2021), available at: https://www.eia.gov/todayinenergy/detail.php?id=49556.
[19] Holly Bailey, "After Ida, New Orleans residents find a source of hope: The 'hurricane station,'" The Washington Post (Sep. 8, 2021), available at: https://www.washingtonpost.com/nation/2021/09/08/new-orleans-ida-radio-wwl/.

As discussed above, NAB recognizes that FEMA's proposal could enhance public safety by expanding opportunities for members of the public to corroborate alert information from multiple sources and react more quickly. However, we respectfully submit that such benefits are outweighed by certain risks and uncertainties, including the lack of a clear process for ending or cancelling persistent alerts, handling multiple or overlapping alerts, or modifying an alert as an event progresses. Broadcasters are also concerned that persistent alerts may interrupt their emergency news coverage on which Americans rely. In the same vein, enabling EAS messages to persist for the duration of an emergency could lead to alert fatigue, frustrating the public and causing individuals to tune out EAS information and other information about an emergency.[20] The FCC recently acknowledged this risk in the Order when clarifying the process for repeating EAS alerts.[21]

In addition, adopting FEMA's request may be unnecessary because the existing capability of alert originators to periodically reissue EAS alerts should be sufficient to address FEMA's goal. Repeat alerts on multiple EAS sources should allow most Americans to obtain EAS information that validates the authenticity of an alert and pushes them to take protective steps. We submit that this approach is better controlled by the originator, more easily tailored to the severity of a situation, more compatible with the existing receiver base, and will avoid the risks of looped EAS alerts.[22]

Moreover, at least on television, broadcasters routinely display some kind of symbol in the corner of the screen notifying viewers of an ongoing emergency, and/or run a crawl

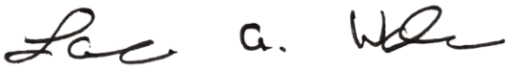
[20] *See, e.g.*, Comments of the Washington State SECC at 4, PS Docket Nos. 15-94 and 15-91 (Apr. 14, 2021); Comments of Donald Walker at 2, PS Docket Nos. 15-94 and 15-91 (Apr. 19, 2021).
[21] Order at ¶ 39.
[22] Further Notice at ¶ 55.

with essential emergency information during regularly scheduled programming.[23] NAB believes that, in nearly all situations, this approach sufficiently informs viewers about an emergency, and in less frequent, extremely severe cases where more may be needed, television stations customarily interrupt regular programming with a live report about the situation at hand. In any event, even if there was some methodology for originators and broadcasters to implement persistent EAS alerts, an additional challenge lies in the inability of consumer TV sets to provide viewers a way to retrieve or interact with such alerts.

III. CONCLUSION

For the reasons stated above, NAB respectfully submits that no further Commission action is required regarding FEMA's recommendation that the Commission consider ways to modify the EAS to implement persistent EAS alerts.

Respectfully submitted,



Rick Kaplan
Larry Walke
David Layer
Kelly Williams

NATIONAL ASSOCIATION OF BROADCASTERS
1 M Street S.E.
Washington, D.C. 20003
(202) 429-5430

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[23] *Id*. at ¶ 54.