

New Foreign Sponsorship ID Rule Proposed

The FCC has adopted a *Second Notice of Proposed Rulemaking* (FCC 22-77) in Docket 20-299, proposing self-certification of compliance with the rules concerning identification of programming sponsored by a foreign government. This proposal comes in the wake of the ruling by the U.S. Court of Appeals for the D.C. Circuit last summer in *National Association of Broadcasters, et al., v. FCC*, 39 F.4th 817. The court vacated a portion of the FCC's prior rule that required broadcasters to conduct due diligence about prospective channel lessees by consulting government databases to research whether they had foreign government connections.

The rules previously adopted by the FCC in this proceeding require that programming sponsored or provided by a foreign government or the agent of a foreign government be accompanied by announcements identifying the foreign sponsor to the audience. To ensure that the broadcaster had adequate information about the sponsor to determine its status, in addition to inquiring directly of the sponsor or lessee, the station was required to consult two government-compiled databases of entities known to have connections with foreign governments. Before the Court of Appeals, the broadcaster appellants had argued that the requirement to conduct further research about the program sponsor/provider/lessee would be unduly burdensome for stations, and in any event, that the FCC lacked the authority to impose such a requirement. The court agreed that the FCC had exceeded its authority and struck down this provision. However, during oral argument of the case, the court posed a query about whether self-certification by broadcasters would be a reasonable alternative for accomplishing the FCC's objectives. The Commission follows this lead in making the present proposals.

The Commission proposes to require both the station and the program provider to certify that they are in compliance with the rule at the time that they enter into the agreement for carriage of the programming in question. The broadcaster would certify that it has made the appropriate inquiry of the programmer and sought a certification from the program provider regarding its status. The program provider would certify as to whether it is or is not a foreign governmental entity and whether it knows of any entity or individual further back in the production or distribution chain that is a

continued on page 2

EAS Participants To Prioritize CAP Messages

The FCC has amended its rules governing the Emergency Alert System ("EAS") to require system participants, including all broadcasters, to prioritize incoming alert messages from the IP-based (i.e. Internet protocol) Common Alerting Protocol ("CAP") over the messages arriving on the legacy EAS. The Commission took this action in a *Report and Order* (FCC 22-75) in Docket 15-94, which adopted most of the proposals offered previously in this proceeding. The Commission says that these updates to its rules are intended to improve the clarity and accessibility of emergency alert messages for all Americans, and especially for people with disabilities.

EAS messages originate with the Federal Emergency Management Agency ("FEMA"). In the legacy system, FEMA provides the alert messages to broadcast stations serving as Primary Entry Points (or PEP stations). The alert messages are then carried along through daisy-chains of other stations specified in State EAS Plans, until every station has received the incoming message. CAP messages

continued on page 8

IN THIS ISSUE

Updates for TV Technical Rules.....	2
Wrong Nighttime Operation Draws Fine	3
Deadlines to Watch.....	4-5

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Updates Proposed for TV Technical Rules

In recent years, the broadcast television industry has been transformed by two important transitions involving its use of the electromagnetic spectrum. The first of these was the transition from analog to digital broadcasting in the early 21st century. The second concerned the consolidation of the television band as spectrum above channel 37 was reallocated to other services and the post-Incentive Auction repack. These transitions have had the effect of making some of the FCC's technical regulations for broadcast television outmoded or completely obsolete. To address this gap between its rules and reality, the FCC has proposed a wide range of updates to its technical rules in a *Notice of Proposed Rulemaking* (FCC 22-73) in Docket 22-227.

During the digital transition when there were both analog and digital stations in operation, the Commission distinguished between them by labeling digital stations and functions as "digital" while analog stations often were just referred to as "stations." There are no longer any analog stations. Hence there is no need to distinguish between digital and analog. The Commission proposes to drop the term "digital" in these contexts because all television is digital now.

During the transitions, the Commission adopted rules to govern the interference relationships between analog and digital stations. These rules are obviously no longer needed, and the Commission proposes to delete them from the rulebook. Similarly, there are rules to govern the movements and relationships of stations during the post-Incentive

Auction repack. The repack has been completed. Therefore, the Commission proposes to delete those rules as well.

There are other rules describing and governing various technical aspects of analog broadcasting that do not exist in digital operations. These rules are slated for deletion.

Subscription television services are authorized in several rule sections beginning with Section 73.641. There are no longer any stations offering subscription television services. The Commission proposes to remove these provisions from the rules.

In 2000, the Commission adopted a needs-based test in Section 73.622 for rulemakings concerning the conversion of a commercial allotment to a noncommercial reservation. This provision has never been invoked. The Commission proposes to delete this rule, making it clear however, that this move does not eliminate the ability of a nonprofit entity to request the reservation for noncommercial use of an existing vacant channel.

The Commission also proposes to eliminate or reorganize a variety of other technical television rules, many of which are obscure and/or infrequently cited. The FCC's objective is to improve the usefulness and clarity of its regulations.

The Commission invites the public to comment on these proposals. Comments must be filed within 60 days after publication of notice of this proceeding in the Federal Register. Reply comments will be due 75 days after that publication.

New Foreign Sponsorship ID Rule Proposed continued from page 1

foreign governmental entity and has provided some form of compensation, or the programming itself, as an inducement to broadcast the programming. The Commission proposes to require standardized language for these certifications.

The proposed texts for these certifications are lengthy and very specific. They are included at the end of this article despite their length so as to give the reader the full impact of what the FCC is proposing.

These certifications would be made at the time that the station and the programmer enter into an agreement, and upon renewal of the contract. The certification document can be separate from the contract, or its language could be incorporated into the contract. Either way, it must be posted on the station's Online Public Inspection File. The previously adopted rules included a requirement for the broadcaster to memorialize its investigation of the programmer's status and to retain the resulting memorandum in the station's records. The self-certification process would replace this requirement.

The Commission requests comment about how to deal with situations where the programmer fails to certify and the broadcaster decides to go forward with the carriage of the programming nonetheless. The agency asks whether the broadcaster should be required to notify it of such circumstances.

If adopted, the proposed certification requirement would apply to all new leased airtime contracts going forward. The Commission proposes to allow a period of six months to bring contracts existing at the time the rules become effective into compliance.

The Commission requests comment on an alternative approach for gathering data from the government databases. Under this proposal a station would require the lessee programmer to document that the databases do not identify it as having foreign government contacts of the type in question. This concept was also raised by the court. The Commission asks whether it has the authority to require this of prospective lessees, and what kind of documentation could a lessee provide from the databases.

In its prior *Report and Order* adopting the foreign sponsorship ID rules, the Commission said that these regulations would not apply to "traditional, short-form advertising." In July 2021, the affiliates' associations of the four major television networks filed a Petition for Clarification of that expression as used in the *Report and Order*, asserting that it was the source of confusion among broadcasters. The Commission invited public comment on the Petition at the time, but received only a limited number of responses. The

continued on page 6

\$20K Forfeiture Proposed for Long-Term Noncompliance

The FCC's Media Bureau has proposed a \$20,000 fine and a two-year short-term license renewal for KSCO(AM), Santa Cruz, California, for operating its nighttime facilities at variance from its license for decades. The Bureau narrated an account of the station's encounters with the Commission in a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* ("NAL") (DA 22-1102). The Bureau considered these rule infractions in the context of the station's application for license renewal.

KSCO has been authorized to operate with 10 kilowatts in a nondirectional mode during daytime, and with 5 kilowatts directional at night since 1970. The station's licensee, Zwerling Broadcasting Systems, Ltd., obtained a special temporary authority ("STA") to operate the station in the nondirectional mode at night with 1 kilowatt of power in 1993. This STA was extended several times. The last extension expired on November 29, 1996. In its letter granting that last extension, the Media Bureau warned Zwerling that the station must return to licensed operation or file an application to modify the authorization for its nighttime facilities. As of the date of the Bureau's NAL, Zwerling had not filed an application to modify the license.

In 2016, the FCC's Enforcement Bureau received a complaint about the station's operation. When Enforcement Bureau personnel contacted the licensee, Zwerling admitted that the station was operating omnidirectionally at night with 1 kilowatt. The Enforcement Bureau informed Zwerling that it must apply for an STA and then return the station to its licensed parameters, or apply to modify the license to be consistent with the current operations. Zwerling did neither.

Another complaint came to the Commission in 2020, alleging that KSCO had been operating at night in the nondirectional mode with 1 kilowatt for more than 30 years. Upon being questioned by the Media Bureau, Zwerling admitted that the station had been operating with 1 kilowatt nondirectional at night for more than 30 years. Zwerling asserted that the station loses coverage to "a significant amount of [its] service area" using the directional pattern. Zwerling also said that it had "determined that in the absence of any interference complaints from consumers nor [sic] broadcasters . . . , it would NOT be in the public interest, convenience, and necessity for us to cut our coverage to roughly 75% of the population we are here to serve." Zwerling claimed that the station had been an "incredibly valuable, highly-praised safety resource in Santa Cruz and all communities of the Monterey Bay Area during times of emergencies, i.e., fires, storms, floods, earthquakes, power outages, etc. . . ."

On September 7, 2022, Zwerling requested an STA to continue to operate omnidirectionally at night with reduced power. The Media Bureau denied this request because

Zwerling did not provide any justification for the need to operate with alternate facilities and furthermore, did not provide any engineering studies to demonstrate that no prohibited interference would be caused to other stations. The Bureau directed Zwerling to terminate immediately its unauthorized nighttime operation and to either resume broadcasting with the station's licensed facilities or apply to modify the license.

On the record of this proceeding, the Bureau concluded that Zwerling had violated several of the FCC's Rules as well as Section 301 of the Communications Act. The Commission is authorized under the Act to impose forfeitures on an entity that "willfully or repeatedly fails to comply with . . . any rule, regulation, or order issued by the Commission." The Commission's forfeiture guidelines specify a base forfeiture of \$10,000 for operating without an instrument of authorization, and a base amount of \$3,000 for failing to file required forms or information. The Commission can adjust these base amounts upward or downward as the facts in a case may warrant. The station's nonconforming operation spanned an entire license term. Zwerling twice disregarded Commission admonitions to correct the station's operations. On these facts, the Media Bureau found justification for adjusting the amount of the forfeiture upward to \$20,000.

With respect to the pending license renewal application for KSCO, the Bureau said that Zwerling's operation of the station during the most recent license term "does not warrant routine license renewal." Despite that, the Bureau found that these violations of the FCC's Rules and the Communications Act do not constitute "serious violations" of the nature referenced in Section 309(k) of the Act. Under that provision, the Commission is to grant license renewal applications if (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse. The Bureau found no evidence in Zwerling's violations of a pattern of abuse. At the same time, KSCO appeared to serve the public interest during the license term. On balance, the renewal application could be granted, but not for the standard eight-year term. The Bureau granted a new license term of two years "to ensure that the station complies with the Act and the Rules in the future." The short-term renewal will give the Commission an opportunity to review the station's compliance with the Act and the Rules and to take whatever corrective steps may be warranted at that time. Under these terms, the Bureau committed to grant the renewal application upon the resolution of the forfeiture proceeding.

Zwerling has 30 days from the release of the NAL to pay the fine, or to seek its reduction or cancellation.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

SPECIAL EXTENSIONS OF PUBLIC FILE DEADLINES: All Public Inspection File deadlines for stations that suffered damage from Hurricane Fiona are extended until November 14, 2022. All Public Inspection File deadlines for stations that suffered damage from Hurricane Ian are extended until December 12, 2022.

October 1	Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, the Mariana Islands, Missouri, Puerto Rico, Oregon, the Virgin Islands, and Washington.	October 10	Deadline for all Class A TV stations to place quarterly statement of Class A qualifications in Public Inspection File.
October 3	Deadline to file license renewal applications for television stations in Alaska, American Samoa, Guam, Hawaii, the Mariana Islands, Oregon, and Washington.	December 1	Deadline to file license renewal applications for television stations in Connecticut, Rhode Island, Maine, Massachusetts, New Hampshire, and Vermont.
October 3	Deadline for all broadcast licensees and permittees of stations in Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, the Mariana Islands, Missouri, Puerto Rico, Oregon, the Virgin Islands, and Washington to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).	December 1	Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont.
October	Television stations in Alaska, American Samoa, Guam, Hawaii, the Mariana Islands, Oregon, and Washington begin broadcasting post-filing announcements within five business days of acceptance for filing of license renewal application and continuing for four weeks.	December 1	Deadline for all broadcast licensees and permittees of stations in Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).
October 10	Deadline to place quarterly Issues/Programs List in Public Inspection File for all full service radio and television stations and Class A TV stations.	December 1	Deadline for television stations that provided ancillary or supplementary services during the 12-month period ending September 30, 2022, to file annual Ancillary/Supplementary Services Report.
October 10	Deadline for all noncommercial stations to place reports about third-party fundraising in Public Inspection File.	December	Television stations in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont begin broadcasting post-filing announcements within five business days of acceptance for filing of license renewal application and continuing for four weeks.

Proposed Amendment to the FM Table of Allotments

The FCC is considering a request to amend the FM Table of Allotments by adding a new channel for the community identified below. The deadlines for submitting comments and reply comments are shown.

COMMUNITY	PRESENT CHANNELS	PROPOSED CHANNELS	COMMENTS	REPLY COMMENTS
Dennison, OH	---	272A	Dec. 8	Dec. 23

Proposed Amendment to the Television Table of Allotments

The FCC is considering a petition to amend the digital television Table of Allotments by changing the channel allotted to the community identified below. The deadlines for submitting comments and reply comments are shown.

COMMUNITY	STATION	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Lincoln, NE	KUON-TV	*12	*27	Nov. 7	Nov. 21

(*) Indicates that the channel is reserved for noncommercial use.



DEADLINES TO WATCH



Paperwork Reduction Act Proceedings

The FCC is required by the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
Deletion or repositioning of television signal on cable system, Section 76.1601	Nov. 7
Initial must carry notice, Section 76.1617	Nov. 7
Principal cable headend, Section 76.1607	Nov. 7
Alternative Broadcast Inspection Program Compliance Notification	Nov. 15
Radio astronomy coordinator zone, Section 73.1030(a)(2)	Nov. 21
Digital TV PSIP standards, Section 73.682(d)	Nov. 22
Station log, Section 73.1820	Nov. 25
Rebroadcasts, Sections 73.1207, 74.784, 74.1284	Dec. 5
Application for LPTV channel-sharing authorization, Form 2100, Schedule D	Dec. 12
User interfaces, menus and guides on digital apparatus, Sections 79.107, 79.108, 79.110	Dec. 12
Delivery of satellite signals to underserved households for purposes of the Satellite Home Viewer Act, Section 73.686	Dec. 12

Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **October 31, 2022**. Informal objections may be filed any time prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Clayton, GA	Toccoa, GA	WRBN	239	95.7
Greenville, MS	Inverness, MS	WIBT	250	97.9
Laurel, MS	Ellisville, MS	WMXI	251	98.1
Buffalo, MO	Fair Grove, MO	KBFL-FM	260	99.9
Bozeman, MT	Belgrade, MT	KYWL(AM)	n/a	1480
Lordsburg, NM	Mescal, AZ	KPSA-FM	253	98.5
La Follette, TN	Greenback, TN	WPLA	285	104.9

Deadlines for Comments in FCC and Other Proceedings

DOCKET	COMMENTS	REPLY COMMENTS
(All proceedings are before the FCC unless otherwise noted.)		
Docket 22-261; 6th NPRM (FCC 22-58) Digital LPTV		Nov. 7
Docket 22-301; NOI (FCC 22-68) Review of Regulatory Fees		Nov. 25
Docket 22-227; NPRM (FCC 22-73) Updating television rules	FR+60	FR+75
Docket 20-299; 2nd NPRM (FCC 22-77) Foreign sponsorship identification	FR+30	FR+45

FR+N means the filing due date is N days after publication of notice of the proceeding in the Federal Register.

New Foreign Sponsorship ID Rule Proposed continued from page 2

Commission solicits comment on this issue again now.

The Commission seeks input as to whether experience with these rules has provided stations with additional insight regarding the issues raised in the Petition and what criteria the Commission might adopt to distinguish between advertising and programming arrangements for the lease of airtime in a way that does not jeopardize the Commission's objectives in this proceeding. The Commission asks whether there are characteristics that would distinguish advertising spots from the lease of airtime. Such factors might include things such as duration, content, editorial control, or differences in the contractual relationship between the station and the content provider. As an example, the Commission suggests that it could establish a safe harbor presumption that broadcast matter of two minutes or less in length would be considered "short-form advertising."

Comments responding to these requests in Docket 20-299 will be due 30 days after publication of notice of the proceeding in the Federal Register. The due date for reply comments will be 45 days after that publication.

The FCC is proposing the following standardized language for the broadcaster's certification:

I am authorized on behalf of [Licensee] to certify the following: I certify that in accordance with 47 CFR § 73.1212(j), [Licensee] has:

- (1) Informed [Lessee] at the time of [entering into OR renewal of] this agreement of the foreign sponsorship disclosure requirement contained in 47 CFR § 73.1212(j);
- (2) Inquired of [Lessee] at the time of [entering into OR renewal of] this agreement whether [Lessee] falls into any of the categories listed in the Federal Communications Commission's (FCC) rules at 47 CFR § 73.1212(j) such that the [Lessee] qualifies as a "foreign governmental entity,";

The FCC's rules state that term "foreign governmental entity" includes a "government of a foreign country," "foreign political party," an "agent of a foreign principal," and a "United States-based foreign media outlet." 47 CFR § 73.1212(j)(2). The FCC's rules, at 47 CFR § 73.1212(j)(2) (i)-(iv), define these terms in the following manner:

- (i) The term "government of a foreign country" has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. § 611(e);
- (ii) The term "foreign political party" has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. § 611(f);
- (iii) The term "agent of a foreign principal" has the meaning given such term in the Foreign Agents Registration Act of 1938 (22 U.S.C. § 611(c)), and who is registered as such with the Department of Justice, and whose "foreign principal" is a "government of a foreign country," a "foreign political party," or directly or indirectly operated, supervised, directed, owned, controlled, financed, or subsidized by a "government of a

foreign country" or a "foreign political party" as defined in subsection 73.1212(j)(2)(i) and (ii), and that is acting in its capacity as an agent of such "foreign principal,"

(iv) The term "United States-based foreign media outlet" has the meaning given such term in Section 722(a) of the Communications Act of 1934 (47 U.S.C. § 624(a)).

(3) Inquired of [Lessee] at the time of [entering into OR renewal of] this agreement whether it knows if any individual/entity in the chain of producing or distributing the programming that will be aired pursuant to the lease agreement, or a sub-lease, qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming, including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself;

(4) Sought and obtained from [Lessee] a certification stating that [Lessee] [is OR is not] a "foreign governmental entity," as that term is defined above;

(5) Sought and obtained from [Lessee] a certification about whether it knows if any individual/entity in the chain of producing or distributing the programming that will be aired pursuant to the lease agreement, or a sub-lease, qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming, including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself; and

(6) If [Lessee] qualifies, or knows of an individual/entity further back in the chain of producing and distributing the programming that qualifies, as a "foreign governmental entity," as defined above, then [Licensee] obtained from [Lessee] the information needed to append the following disclosure to lessee's programming consistent with 47 CFR § 73.1212(j)(1)(i):

"The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country]."

I, [insert name of person/entity authorized to certify on behalf of Licensee] by my signature attest to the truth of the statements listed above.

The FCC proposes the following language for the standardized certification by the lessee.

:

I am authorized on behalf of [Lessee] to certify to the following:

(1) [Licensee] has informed [Lessee] at the time of [entering into OR renewal of] this agreement of the foreign sponsorship disclosure requirement contained in 47 CFR § 73.1212(j);

(2) [Licensee] has inquired of [Lessee] at the time of

continued on page 7

New Foreign Sponsorship ID Rule Proposed continued from page 6

[entering into OR renewal of] this agreement whether [Lessee] falls into any of the categories listed in the Federal Communications Commission's (FCC) rules at 47 CFR § 73.1212(j) such that the [Lessee] qualifies as a "foreign governmental entity,";

The FCC's rules state that term "foreign governmental entity" includes a "government of a foreign country," "foreign political party," an "agent of a foreign principal," and a "United States-based foreign media outlet." 47 CFR § 73.1212(j)(2). The FCC's rules, at 47 CFR § 73.1212(j)(2) (i)-(iv), defines these terms in the following manner:

- (i) The term "government of a foreign country" has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. § 611(e);
- (ii) The term "foreign political party" has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. § 611(f);
- (iii) The term "agent of a foreign principal" has the meaning given such term in the Foreign Agents Registration Act of 1938 (22 U.S.C. § 611(c)), and who is registered as such with the Department of Justice, and whose "foreign principal" is a "government of a foreign country," a "foreign political party," or directly or indirectly operated, supervised, directed, owned, controlled, financed, or subsidized by a "government of a foreign country" or a "foreign political party" as defined in subsection 73.1212(j)(2)(i) and (ii), and that is acting in its capacity as an agent of such "foreign principal,"
- (iv) The term "United States-based foreign media outlet" has the meaning given such term in Section 722(a) of the Communications Act of 1934 (47 U.S.C. § 624(a)).

(3) [Licensee] has inquired of [Lessee] at the time of [entering into OR renewal of] this agreement whether [Lessee] knows if any individual/entity further back in the chain of producing or distributing the programming that will be aired pursuant to the lease agreement, or a sub-lease, qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming, including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself;

(4) [Lessee] certifies that it [is OR is not] a "foreign governmental entity," as that term is defined above;

(5) If applicable: [Lessee] certifies that to its knowledge [Individual/Entity] qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming,

including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself;

(6) If applicable: [Lessee] certifies that to its knowledge there is no individual/entity further back in the chain of producing or distributing the programming that will be aired pursuant to the lease agreement, or sub-lease, that qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming, including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself;

(7) If applicable: [Lessee] certifies that to its knowledge there is an individual/entity further back in the chain of producing or distributing the programming that will be aired pursuant to the lease agreement, or sub-lease, that qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming, including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself. The name, address, phone number, and email address, if known, of such individual/entity is [individual/entity name, address, phone number, and email address, if known];

(8) To the extent applicable, [Lessee] has provided [Licensee] the information needed to append the following disclosure to lessee's programming consistent with the FCC's rules, found at 47 CFR § 73.1212(j)(1)(i):

"The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country]."

(9) [Lessee] certifies that during the course of the lease agreement, [Lessee] commits to notify [Licensee] if [Lessee's] status as a "foreign governmental entity" changes or if [Lessee] learns that there is an individual/entity further back in the chain of producing or distributing the programming that will be aired pursuant to the lease agreement, or sub-lease, that qualifies as a "foreign governmental entity," as that term is defined above, and has provided some type of inducement to air the programming, including, in the case of political programming or programming involving the discussion of a controversial issue, the programming itself.

I, [insert name of individual/entity authorized to certify on behalf of Lessee] by my signature attest to the truth of the statements listed above.

EAS Participants To Prioritize CAP Messages continued from page 1

are delivered via the internet on a FEMA-operated platform known as the Integrated Public Alert and Warning System (“IPAWS”). Because they are IP-based, CAP messages can typically provide more data than the corresponding legacy EAS message. That additional capacity allows the public to receive more and better-sounding information. The Commission is seeking to foster more use of the higher quality and more robust nature of the CAP messages for the benefit of the public.

When an EAS participant receives a legacy EAS alert message that (i) is valid; (ii) covers the type of event and geographic area for which the station normally transmits alerts; and (iii) does not duplicate a CAP message it has already received, the station is to check whether a CAP version is available by polling the IPAWS feed for CAP-formatted EAS messages. If a CAP version is available, the station must broadcast it rather than the legacy version. If the CAP version is not yet available, the station is required to wait at least 10 seconds after receiving the header code for the message to become available. If no CAP version is available after waiting at least 10 seconds, the station can air the legacy version of the alert so as to avoid delay in informing the public about the emergency. The station has the flexibility to wait longer than 10 seconds to poll for CAP messages if it believes that specific circumstances or an unusual polling cycle warrant extra waiting. On the other hand, if a CAP message is detected but downloading it is unduly delayed because of technical problems, the station may proceed to transmit the legacy version of the same alert immediately.

The requirement to poll for and prioritize CAP-formatted messages will apply to all EAS alert categories except for alerts with the EAN, NPT and RWT event codes. EAN is the event code for National Emergency Messages, which are live Presidential alerts. IPAWS cannot currently support live streaming of a Presidential alert. The NPT event code covers the national testing event which is designed to test the functioning of the legacy EAS. RWT is the event code for Required Weekly Test. Polling for CAP messages is not necessary for these weekly messages because they typically consist only of tones, and contain no audio or visual elements.

The FCC rejected the argument that radio stations should be exempt from the mandate to prioritize CAP messages. Comments in the proceeding on behalf of radio broadcasters suggested that the underlying purpose for prioritizing CAP was to enhance the accessibility of EAS messages for individuals who are deaf or hard of hearing through the dissemination of more alerts with matching visual crawls and audio messages presented on television. The Commission countered this with the observations that some radio stations do transmit video alerts to digital radio receivers, and further, that the quality of the audio generated from a CAP alert is superior to that of a legacy message.

To foster better public comprehension of the EAS, the Commission changed the text for the event codes, EAN and NPT, and the originator code, PEP. The text for the EAN event code is changed to read, “National Emergency Message” instead of “Emergency Action Notification.” The NPT event code text is modified from “National Periodic Test” to read, “Nationwide Test of the Emergency Alert System.” The text for the PEP originator code is amended to “United States Government,” in place of “Primary Entry Code System.”

The FCC also updated the language for the visual crawl for EAS-based nationwide test alerts transmitted in the legacy format as follows: “This is a nationwide test of the Emergency Alert System, issued by the Federal Emergency Management Agency, covering the United States from [time] to [time]. This is only a test. No action is required by the public.”

The effective date of the *Report and Order* is set for 30 days after publication in the Federal Register. EAS participants will have 12 months from that date to become compliant with these rules with the installation of equipment and/or software capable of polling IPAWS for CAP messages.

Earlier in this proceeding, the Commission had considered authorizing legacy EAS transmissions of “persistent alerts.” This would have allowed alerts concerning emergencies that require immediate public protective action to mitigate loss of life to be repeated, or to persist, on EAS until the alert time has expired or is cancelled by the alert originator. The Commission now declines to take action on this proposal in the face of “virtually unanimous opposition” by commenting parties.

**LOWEST UNIT CHARGE
PERIOD CONTINUES THROUGH
NOVEMBER 8, 2022**

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