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Annual National EAS Test Proposed

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The FCC has proposed rules providing for an annual test of the national alert capability of the broadcast Emergency Alert System (EAS). What's more, all EAS participants in the country will have to tell the FCC whether they received the test, whether they retransmitted it, and if not, what went wrong.

Just about every full power radio and television station in the country is required to have an EAS decoder in place, and most are also required to have an encoder and to conduct weekly and monthly alert tests. All tests must be recorded in the station's log. Not every station is fully attentive to these responsibilities, and fines for non-compliance pop up fairly frequently.

The EAS is capable of both national alerts and alerts restricted to a smaller area, such as one state. If a national alert is received, all stations must cease normal programming and either (a) put the alert on the air or, if they can't put it on the air, (b) shut down. Retransmission of smaller area alerts is optional on the part of the licensee.

The FCC has never tested the national alert system, so they are starting to wonder what would happen if the President ever pushed the magic button and tried to get his voice on every station in the country. A lot of EAS decoders are automated, and a lot of stations operate unattended all or part of the day. Would the nationwide system really work, or would it crash with a dull thud?

(Actually, the Commission *does* have an idea of what might happen. It turns out that, in 2007, some FEMA workers in Illinois accidentally triggered a national-level EAS alert. Since it was not intended to be a test, presumably the alert looked like a *real* alert, and therefore it should have rocketed coast-to-coast lickety-split. Oops. Apparently, it "caused some confusion to broadcasters and other communications in the Ohio Valley and beyond" and ultimately ran out of gas because of a "combination of EAS Participant intervention and equipment failure". That hardly encourages confidence that the system will work when it's triggered on purpose.)

Such uncertainty may soon come to an end, if the FCC has its way.

The Commission has issued a Notice of Proposed Rule Making proposing to conduct a national test once a year. Stations would be given at least two months' advance warning that the test was coming but would not be told the exact time and date. Every EAS participant would be expected to air the test, to log it, *and* to provide the test results to the FCC within 30 days. If the test was not received or retransmitted, a station would have to find out what went wrong, fix it, and tell the FCC about it.

Comments on this proposal will be due 30 days after the NPRM is published in the *Federal Register*. (Check our blog at www.CommLawBlog.com here for updates on the filing deadline.)

Presumably the national test will be set up so that listeners and viewers will be amply warned that it is only a test, thereby avoiding (at least in theory) a "War of the Worlds"-like panic. (For you young 'uns, the "War of the Worlds" refers to a 1938 radio dramatization of the H.G. Wells science fiction classic, [produced by Orson Welles' Mercury Theatre on the Air](#). It caused widespread panic among listeners.)

But will your station be ready, and will its equipment perform? Wise licensees will check out everything *now* and make sure that their equipment is shipshape, that no one kicked the plug out of the wall, and that they can receive the required two stations they are supposed to monitor. One thing in particular to check is whether your encoder/decoder requires a Federal Information Processing Standards (FIPS) location code in order to respond to a message. That code identifies the geographic area to which an alert applies. A nationwide message might not have one, and some decoders are known to ignore messages with no FIPS Code.

Digital radio and TV stations should make sure that the alert is retransmitted on each of their audio or video streams. We do not know now the format in which stations will have to report to the FCC, but we would not be surprised if the FCC's website suffers from a simultaneous reporting requirement for over 10,000 stations the way it has teetered in the face of other simultaneous mass filings dictated by arguably ill-chosen FCC deadlines.

The FCC's Enforcement Bureau might view these national tests as an opportunity to ring up their cash register at the expense of stations which drop the ball.

Of course, the national test is just a proposal at this point. But the FCC appears convinced already that it's a good idea, and it's hard to imagine that there will be much public sentiment against greater national security. So it's a pretty good bet that the national test proposal will become a national test reality in due course – probably not before next year at the earliest, but you never can tell. In any event, before the

Commission adopts the national test, it would be a good idea for all broadcasters to check out their EAS gear now, and help protect our country, to say nothing of their wallets.