

**FCC FACT SHEET\***  
**Amendment of Part 11 of the Commission's Rules**  
**Regarding the Emergency Alert System**  
Report and Order in PS Docket Nos. 15-91 and 15-94

**Background:** The Emergency Alert System (EAS) and Wireless Emergency Alerts system (WEA) distribute tens of thousands of warnings to the public every year, providing notice of emergencies including AMBER Alerts for missing and endangered children. 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. Last year, more than 188,000 adults who were reported missing in the United States fell outside the criteria for AMBER Alerts (whose criteria include the person being 17 or younger). The problem is acute in Tribal communities, where American Indian and Alaska Native people are at a disproportionate risk of violence, murder, or vanishing. This *Report and Order*, if adopted, would facilitate the delivery of alerts for missing and endangered persons over the EAS and WEA. In so doing, the *Report and Order* would provide law enforcement, EAS Participants, and WEA providers with a means to quickly disseminate information pertaining to missing and endangered persons cases.

**What the *Report and Order* Would Do:**

- Revise the EAS rules to adopt a new EAS event code for Missing and Endangered Persons (MEP). This new MEP event code would allow for the transmission to the public of “MEP alerts” associated with persons who are missing or abducted from states, territories, or Tribal communities. The MEP event code would be disseminated over the EAS and, correspondingly, over the WEA system.
- Establish criteria for the MEP code as missing and endangered individuals over the age of 17 and missing and endangered individuals under the age of 17 whose circumstances fall outside of the criteria for issuance of an AMBER Alert.

---

\* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in in PS Docket Nos. 15-91 and 15-94, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

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

REPORT AND ORDER\*

Adopted: [ ]

Released: [ ]

By the Commission:

TABLE OF CONTENTS

I. INTRODUCTION..... 1
II. BACKGROUND..... 5
III. DISCUSSION ..... 14
A. Adopting an MEP Event Code Will Make EAS a More Effective Tool for Finding Missing and Endangered Persons Who Do Not Qualify for an AMBER Alert..... 15
B. A Dedicated MEP EAS Event Code is in the Public Interest ..... 24
C. WEA Delivery of MEP Alerts ..... 32
D. Implementation Schedule..... 36
E. Further Examination of Tribal-Specific Issues ..... 44
F. Analysis of Costs and Benefits ..... 47
IV. PROCEDURAL MATTERS..... 51
A. Accessible Formats ..... 51
B. Regulatory Flexibility Analysis ..... 52
C. Paperwork Reduction Analysis..... 53
D. Congressional Review Act..... 54
E. Availability of Documents..... 55
F. Additional Information ..... 56
V. ORDERING CLAUSES..... 57
APPENDIX A – FINAL RULES
APPENDIX B – FINAL REGULATORY FLEXIBILITY ANALYSIS

\* This document has been circulated for tentative consideration by the Commission at its August open meeting. The issues referenced in this document and the Commission’s ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairwoman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203.

## APPENDIX C – MEP NPRM COMMENTERS

## I. INTRODUCTION

1. Today we establish a dedicated Missing and Endangered Persons (MEP) event code to facilitate the more efficient and widespread dissemination of alerts and coordinated responses to incidents involved all missing and endangered persons—including Indigenous persons—across multiple jurisdictions. Adopting a dedicated MEP code will make EAS and WEA alerts a more effective tool for finding missing and endangered persons by notifying the public so they can assist in the search, as we have previously done for children and public safety officers. We also find that this action will support Tribal and Indigenous communities that face a profound crisis of violence directed towards them and of missing, endangered, abducted, and murdered persons.

2. In 2023, more than 188,000 people who fall outside of the criteria for America’s Missing: Broadcast Emergency Response (AMBER) Alerts went missing in the United States.<sup>1</sup> The problem is acute in Tribal communities, where American Indian and Alaska Native people are at a disproportionate risk of violence, murder, or vanishing.<sup>2</sup> In response, Congress tasked the U.S. Department of the Interior and the U.S. Department of Justice (DOJ) to establish a joint commission, the Not Invisible Act Commission (NIAC), to focus on reducing violent crimes against American Indians and Alaska Natives.<sup>3</sup> The NIAC’s responsibility is to identify, report, and respond to instances of missing and murdered Indigenous peoples (MMIP), as such cases have been historically underreported or misclassified.<sup>4</sup>

3. We therefore revise our Emergency Alert System (EAS) and Wireless Emergency Alert

---

<sup>1</sup> According to the National Crime Information Center (NCIC), during 2023, roughly 563,000 persons were entered into its missing persons database. Of these entries, approximately 188,000 were 18 or older. As of December 31, 2023, there were 96,955 active missing person records, of which roughly 68,000 were 18 or older. None of these persons would have been subject to AMBER Alerts, which are limited to persons under 18. Further, although precise data on missing adults over the age of 65 are unavailable at this time, it is clear that many missing adults are under the age of 65. See 2023 NCIC Missing Person and Unidentified Person Statistics, <https://le.fbi.gov/file-repository/2023-ncic-missing-person-and-unidentified-person-statistics.pdf/view> (last visited Jun. 19, 2024). The estimate of approximately 188,000 does not include people under the age of 18 that may not meet the AMBER Alert criteria.

<sup>2</sup> The FBI reports that, in 2023, there were 10,650 entries for American Indian/Alaska Native (AI/AN) persons reported missing to NCIC. This is close to 2% of the total entries; AI/AN is estimated to be 1.1% of the overall U.S. population. Of those 10,650, 3,269 (approximately 30%) were 18 years old or older. See 2023 Missing American Indian and Alaska Native Persons: Age 21 and Under, FBI’s National Crime Information Center Missing Person File, <https://ojjdp.ojp.gov/data/missing-american-indian-alaska-natives.pdf>. Black American missing persons data are equally alarming. In 2023, a total of 202,097 missing Black persons were reported to NCIC, or roughly 35% of the total number of entries. The Black population of the U.S. is approximately 12%. For comparison sake, White Americans, who comprise 70% of the U.S. population, accounted for 56% of the missing persons cases reported to NCIC in 2023. See 2023 NCIC Missing Person and Unidentified Person Statistics, <https://le.fbi.gov/file-repository/2023-ncic-missing-person-and-unidentified-person-statistics.pdf/view> (last visited Jun. 19, 2024). These and other data point to considerable challenges facing communities of color in the U.S. with respect to missing persons, giving rise to acknowledging the crisis in those communities. See “When a Black person goes missing, families say their cases get left behind,” PBS Newshour Report, May 31, 2024 (updated June 3, 2024) <https://www.pbs.org/newshour/nation/when-a-black-person-goes-missing-families-say-their-cases-get-left-behind>.

<sup>3</sup> Public Law 116-166, Not Invisible Act of 2019, 134 Stat. 766, (2020). See also US Department of Interior, *Not One More: Findings and Recommendations of the Not Invisible Act Commission*, November 1, 2023, <https://www.justice.gov/otj/media/1322566/dl?inline> at 34 (“A 2021 report from the Government Accountability Office concluded that baseline data on the rates of murder or the number of missing persons from [American Indian/Alaskan Native] communities is difficult to obtain and the full scope of the problem remains unknown.”).

<sup>4</sup> *Id.*

(WEA) rules to adopt and implement the three-character code “MEP” as a new EAS event code. This will facilitate the delivery of alerts for missing and endangered person, including “Ashanti Alerts,” “Silver Alerts,” and other state-enacted alerts, such as “Feather Alerts,” over the EAS and WEA.<sup>5</sup> In so doing, we again promote public safety—similar to our efforts with AMBER Alerts—by providing law enforcement, EAS Participants, and WEA providers “with a means to quickly disseminate information pertaining to serious” missing and endangered persons cases.<sup>6</sup>

4. Our actions will also promote the development of compatible and integrated Ashanti Alert plans throughout the United States, consistent with the Ashanti Alert Act of 2018 (Ashanti Alert Act)<sup>7</sup> and, thus, facilitate coordinated, nationwide law enforcement activity, pursuant to those plans, to locate missing and endangered persons with the goal of restoring them to their homes, families, and communities. And our action today is a crucial federal step in addressing the persistent crisis of missing, endangered, and murdered Indigenous and Black people in America.<sup>8</sup>

## II. BACKGROUND

5. *Emergency Alert System.* The EAS is a national public warning system through which TV and radio broadcasters, cable systems, and other service providers (EAS Participants)<sup>9</sup> deliver alerts to the public to warn it of impending emergencies and dangers to life and property.<sup>10</sup> The primary purpose of the EAS is to furnish the President with “the capability to provide immediate communications and communications and information to the general public at the National, State and Local Area levels during

---

<sup>5</sup> 47 CFR § 11.1 *et. seq.* (EAS); 47 CFR § 10.1 *et. seq.* (WEA).

<sup>6</sup> See *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, Report and Order, 17 FCC Rcd 4055, 4065, para. 20 (2002).

<sup>7</sup> See Ashanti Alert Act of 2018, Pub L. 115-401, 132 Stat. 5339 (2018), codified at 34 U.S.C. § 21901, *et. seq.* Ashanti Alerts consist of the “voluntary dissemination of information to law enforcement, media and the public about missing adults who are endangered or abducted or who have special needs or circumstances.” DOJ, *Resource Basket for Law Enforcement, Emergency Alerts and Warning Systems*, <https://www.justice.gov/tribal/mmip/resources/law-enforcement> (last visited July 8, 2024).

<sup>8</sup> See Bureau of Indian Affairs, “Missing and Murdered Indigenous People Crisis,” <https://www.bia.gov/service/mmu/missing-and-murdered-indigenous-people-crisis> (last visited June 11, 2024) (“For decades, Native American and Alaska Native communities have struggled with high rates of assault, abduction, and murder of tribal members. Community advocates describe the crisis as a legacy of generations of government policies of forced removal, land seizures and violence inflicted on Native peoples.”).

<sup>9</sup> The Commission’s rules currently define EAS Participants as analog radio broadcast stations, including AM, FM, and Low-power FM stations; digital audio broadcasting stations, including digital AM, FM, and Low-power FM stations; Class A television and Low-power TV stations; digital television broadcast stations, including digital Class A and digital Low-power TV stations; analog cable systems; digital cable systems; wireline video systems; wireless cable systems; direct broadcast satellite service providers; and digital audio radio service providers. See 47 CFR § 11.11(a).

<sup>10</sup> See *Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket No. 15-94, Report and Order, 32 FCC Rcd 10812, para. 2 (2017) (*BLU Report and Order*); *Review of the Emergency Alert System*; *Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief*, ET Docket No. 04-296, Fifth Report and Order, 27 FCC Rcd 642, 646, para. 6 (2012) (*Fifth Report and Order*). The first Notice of Proposed Rulemaking in docket ET No. 04-296 summarized the EAS. See *Review of the Emergency Alert System*, Notice of Proposed Rulemaking, 19 FCC Rcd 15775, 15776-77, paras. 6-8 (2004). In addition, the *Second Report and Order* provided an overview of the present organization and functioning of the system. See *Review of the Emergency Alert System*; *Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief*, Second Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 13275, 13280-83, paras. 11-14 (2007) (*Second Report and Order*).

periods of national emergency.”<sup>11</sup> The common usage of the EAS, however, is to distribute alerts issued by state and local governments, as well as by the National Weather Service (NWS), to the public.<sup>12</sup> The Commission, the Federal Emergency Management Agency (FEMA), and the NWS implement the EAS at the federal level.<sup>13</sup>

6. EAS alerts are configured using the EAS Protocol, which utilizes fixed, three-character “event codes” (e.g., “CAE” signifies Child Abduction Emergency, “TOR” signifies Tornado Warning, and “FFW” signifies Flash Flood Warning) to describe the type of alert being sent. Additional data identifies other elements of an EAS alert, enabling the delivery of temporally- and geographically-targeted alerts to the public.<sup>14</sup> EAS messages are distributed either through (i) a broadcast-based, hierarchical distribution system in which an alert message originator (“Alert Originator”) (e.g., State Governor’s offices, state/county/Tribal emergency management authorities, NWS, etc.) encodes (or arranges to have encoded) a message in the EAS Protocol,<sup>15</sup> which is then broadcast from one or more EAS Participants and subsequently relayed, participant-to-participant, until all affected EAS Participants have received the alert and delivered it to the public;<sup>16</sup> or (ii) an IP-based process over the Internet after

---

<sup>11</sup> See 47 CFR § 11.1. Under the Part 11 rules, national activation of the EAS for a Presidential alert message, initiated by the transmission of an Emergency Action Notification (EAN) event code, is designed to provide the President the capability to transmit an alert message (in particular, an audio alert message) to the American public within 10 minutes from any location at any time and must take priority over any other alert message and preempt other alert messages in progress. See, e.g., *Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 18625, 18628, para. 8 (2005) (*First Report and Order*). See also, e.g., 47 CFR §§ 11.33(a)(11), 11.51(m), (n). Presidential alerts are mandatory for EAS Participants, as are certain system tests; all others are voluntary. See 47 CFR § 11.55(a); *First Report and Order*, 20 FCC Rcd at 18628, para. 8.

<sup>12</sup> See, e.g., *Review of the Emergency Alert System; Independent Spanish Broadcasters Association, The Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council, Petition for Immediate Relief*, Third Further Notice of Proposed Rulemaking, 26 FCC Rcd 8149, 8152-53, para. 3 (2011).

<sup>13</sup> The respective roles of the Commission, FEMA, and NWS are defined in a series of Executive documents. See 1981 State and Local Emergency Broadcasting System (EBS) Memorandum of Understanding Among the Federal Emergency Management Agency (FEMA), Federal Communications Commission (FCC), the National Oceanic and Atmospheric Administration (NOAA), and the National Industry Advisory Committee reprinted as Appendix K to Partnership for Public Warning Report 2004-1, *The Emergency Alert System (EAS): An Assessment*; Memorandum, Presidential Communications with the General Public During Periods of National Emergency, The White House (Sept. 15, 1995); and Public Alert and Warning System, Exec. Order No. 13407, 71 Fed. Reg. 36975 (June 26, 2006).

<sup>14</sup> See 47 CFR § 11.31(c), (e).

<sup>15</sup> The EAS protocol provides very basic information about the emergency involved. See 47 CFR § 11.31. Under this protocol, an EAS alert uses a four-part message: (1) preamble and EAS header codes (which contain information regarding the identity of the sender, the type of emergency, its location, and the valid time period of the alert); (2) audio attention signal; (3) audio message, if included by the alert originator; and (4) preamble and “end of message” (EOM) codes. See *id.* § 11.31(a).

<sup>16</sup> 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 also known as the “legacy EAS.” In legacy EAS, when an EAS Participant broadcasts an alert message, the message is received not only by that EAS Participant’s local audience but also by downstream EAS Participants that monitor the transmission, following a matrix of monitoring assignments set forth in State EAS Plans. The applicable State EAS Plan assigns each EAS Participant alert sources from which it is required to monitor alert messages that they may transmit. The EAS Participant uses specialized EAS equipment to decode the header codes in each alert message it receives; if the alert is in a category and geographic location relevant to that entity, it will rebroadcast the alert. That rebroadcast, in turn, is received not only by that entity’s audience but also by additional downstream EAS

(continued....)

formatting the alerts in the Common Alerting Protocol (CAP) and delivering them via the FEMA-administered Integrated Public Alert and Warning System (IPAWS).<sup>17</sup>

7. *Ashanti Alerts*. Enacted in 2018, the Ashanti Alert Act is named in honor of Ashanti Billie, a 19-year-old woman who was abducted in 2017 in Virginia and found dead in North Carolina.<sup>18</sup> The Ashanti Alert Act requires a National Coordinator within DOJ (the Bureau of Justice Assistance (BJA)) 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, Indian Tribes, units of local government, law enforcement agencies, and other concerned entities with expertise in providing services to adults.”<sup>19</sup> 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.<sup>20</sup>

8. Under the Ashanti Alert Act, BJA, among other things, must work with “States and Indian Tribes to encourage the development of additional Ashanti Alert plans in their network” and “establish voluntary guidelines for States and Indian Tribes to use in developing Ashanti Alert plans that will promote compatible and integrated Ashanti Alert plans throughout the United States.”<sup>21</sup> And, the BJA must coordinate and consult with the Commission and other federal agencies “in carrying out activities under” the Ashanti Alert Act, and also must “consult with local broadcasters and State, Tribal and local law enforcement agencies in establishing minimum standards [for issuance and dissemination of Ashanti Alerts] and in carrying out other activities” under the Ashanti Alert Act.<sup>22</sup>

---

Participants that monitor it. This process of checking and rebroadcasting the alert will be repeated until all affected EAS Participants in the relevant geographic area have received the alert and delivered it to the public. See *Wireless Emergency Alerts; Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket Nos. 15-91, 15-94, Notice of Proposed Rulemaking, FCC 24-30, 2024 WL 1191983, at \*2, paras. 4-5 (March 15, 2024) (*MEP NPRM*); *Fifth Report and Order*, 27 FCC Rcd at 646-47, paras. 6-7. At the state level, state governors and state and local emergency operations managers activate the EAS by utilizing state-designated EAS entry points—specifically, State Primary stations and “State Relay” stations. See 47 CFR § 11.21. These monitoring pathways are set forth in State EAS Plans administered by State Emergency Communications Committees. See 47 CFR § 11.21.

<sup>17</sup> See 47 CFR § 11.56; see also *Fifth Report and Order*, 27 FCC Rcd at 644-45, para. 4. 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 intervention from the EAS Participant; this minimizes the risk of operator error and facilitates EAS operation at unattended stations. See *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System*, Report and Order and Further Notice of Proposed Rulemaking, 10 FCC Rcd 1786, 1822-23, paras. 103-104 (1994) (subsequent history omitted) (*1994 Report and Order*).

<sup>18</sup> DOJ, Fact Sheet, *National Ashanti Alert Network* (July 2020) [bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/National-Ashanti-Alert-Network-Fact-Sheet.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/National-Ashanti-Alert-Network-Fact-Sheet.pdf) (*Ashanti Alert Fact Sheet*). Ashanti Alerts can provide for rapid dissemination of information to law enforcement agencies, media, and the public about adults who have been reported missing, along with suspect information. *Id.* These alerts are currently transmitted through a patchwork of notification systems with laws that vary based on jurisdiction, which can cause significant delay in the dissemination of the alerts.

<sup>19</sup> Pub. Law 115-401 (2018) Sec. 202 (a).

<sup>20</sup> See 34 U.S.C. § 21901, *et. seq.* See also BJA, *Ashanti Alert Act National Notification System—Overview*, <https://bja.ojp.gov/program/ashanti-alert/overview> (last visited Feb. 5, 2024) (*Ashanti Alert Notification System Overview*); *Ashanti Alert Fact Sheet*.

<sup>21</sup> See 34 U.S.C. § 21903(a), (b).

<sup>22</sup> 34 U.S.C. § 21903(c).

9. *Savanna's Act*. Named for Savanna LaFontaine-Greywind, a pregnant member of the Spirit Lake Tribe found brutally murdered in the Red River of North Dakota in 2017,<sup>23</sup> *Savanna's Act* clarifies federal, state, Tribal, and local law enforcement responsibilities for collecting and sharing data “related to missing or murdered Indian men, women, and children, regardless of where they reside . . . and directs U.S. attorneys to develop regionally appropriate guidelines for responding to missing or murdered Indians.”<sup>24</sup> *Savanna's Act* further calls for establishing guidance for “best practices in conducting searches for missing persons on and off Indian land.”<sup>25</sup> *Savanna's Act* brings attention to the need for law enforcement coordination in addressing violent crimes against American Indians and Alaska Natives.

10. *National Congress of American Indians' Resolution*. In late 2023, Native Public Media sponsored a resolution calling for the Commission to establish an MEP event code to “enable a more rapid and coordinated response to incidents involving missing indigenous persons.”<sup>26</sup> NCAI Resolution #NO-23-001 states that “Native Americans face significant challenges in addressing the issue of missing and endangered adults, requiring immediate attention and action,” and that current EAS event codes fail to account for these unique missing person circumstances.<sup>27</sup> The NCAI further states that their “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, as reported by the National Crime Information Center, underscoring the urgent need for targeted measures.”<sup>28</sup> The General Assembly of the National Congress of American Indians (NCAI) adopted this resolution in November 2023.<sup>29</sup>

11. On January 29, 2024, the National Ashanti Alert Network Stakeholder Working Group and Pilot Project Participants Working Group (Ashanti Alert Working Groups) submitted comments that “noted a need for a missing and endangered person code that would supplement the current Child Abduction Emergency (CAE) and Blue Alert (BLU) IPAWS codes. Currently no code exists for missing and endangered persons,” which requires alerting agencies to use generic EAS event codes such as Local Area Emergency (LAE) or Law Enforcement Warning (LEW), when they issued an alert for a missing and endangered person.<sup>30</sup> In offering language for a missing and endangered persons event code, they used “person” and “persons.”<sup>31</sup> Although Ashanti Alerts only apply to adults, the Ashanti Alert Working Groups specifically noted that they did not use “adult” in their proposed language “because alerting agencies have noted that not all missing children fit the criteria outlined for an AMBER alert and as such

---

<sup>23</sup> National Indigenous Women's Resource Center, *Savanna's Act Fact Sheet*, <https://www.niwrc.org/sites/default/files/files/reports/Fact%20Sheet-Savanna%27s%20Act-New.pdf> (last visited Feb. 20, 2024). *See also*, 25 U.S.C. § 5701, *et. seq.*

<sup>24</sup> 25 U.S.C. § 5701.

<sup>25</sup> 25 U.S.C. § 5704.

<sup>26</sup> *Tribes, Native Public Media Urge FCC to Establish Missing and Endangered Event Code*, Navajo-Hopi Observer (Dec 15, 2023), <https://www.nhnews.com/news/2023/dec/05/guest-column-tribes-native-public-media-urge-fcc-e/>.

<sup>27</sup> National Congress of American Indians (NCAI), *To Establish a National Federal Communications Commission Event Code for Missing and Endangered Persons*, Resolution #NO-23-001 (2023), <https://ncai.assetbank-server.com/assetbank-ncai/assetfile/5305.pdf>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* The NCAI, according to Native Public Media, envision using the MEP event code to broadcast timely and critical alerts across the nation using IPAWS. *See id.*

<sup>30</sup> Ashanti Alert Working Groups Comments at 2. We note that the Stakeholder Working Group has representation from thirteen state agencies and two tribes: the Cherokee Nation Marshal Service and the Navajo Nation Office of Chief of Police. *Id.* at 3.

<sup>31</sup> *Id.* at 2.



the MEP code could be utilized when CAE alert criteria [are] not met.”<sup>32</sup>

12. *Post-MEP NPRM Tribal Consultation.* The Commission adopted the *MEP NPRM* on March 14, 2024, proposing 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.”<sup>33</sup> Consistent with Commission policy,<sup>34</sup> the Commission directed the Office of Native Affairs and Policy (ONAP) to coordinate government-to-government consultation with Tribal Nations about the topics raised in the *MEP NPRM*, including the proposal to add a new “MEP” event code and whether it should consider an additional dedicated EAS event code for missing Indigenous persons on and off Tribal land.”<sup>35</sup>

13. Accordingly, ONAP arranged and participated in several consultation and listening sessions with leaders, representatives, and members of federally recognized Tribes and their communities.<sup>36</sup> The consultative events and related *ex parte* meetings took place in May and June 2024, both in person and virtually.<sup>37</sup> In the meetings, ONAP provided overviews of the Commission’s rulemaking processes and the *MEP NPRM*. Commission staff solicited feedback from Tribal participants and explained how Tribal participants could engage in the rulemaking process through comment submissions in the relevant dockets.

### III. DISCUSSION

14. We find that the EAS is an effective mechanism for delivering emergency alerts, which may include alerts about missing and endangered persons. An MEP event code could be used for all EAS alerts about missing and endangered person incidents that do not meet the criteria for an AMBER Alert, including alerts that meet the criteria for an Ashanti Alert.<sup>38</sup> We also find that a dedicated EAS event code for missing and endangered person alerts serves the public interest and advances state and Tribal initiatives to find missing and endangered persons. Accordingly, we create and add a dedicated MEP event code to the EAS Protocol. We also permit MEP alerts to be deployed via WEA using existing alerting methodologies and consistent with our WEA rules. Finally, we establish a period of 12 months from the effective date of the rules, both to enable the usage of the MEP EAS event code over EAS, and to enable the delivery of alerts over WEA.

#### A. Adopting an MEP Event Code Will Make EAS a More Effective Tool for Finding

---

<sup>32</sup> *Id.*

<sup>33</sup> *MEP NPRM* at \*5, para. 13.

<sup>34</sup> Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, Policy Statement, 16 FCC Rcd 4078, 4081 (2000).

<sup>35</sup> *MEP NPRM* at \*8, \*11, paras. 24, 37.

<sup>36</sup> See, e.g., Dear Tribal Leader Letter from B. Kraus, Office of Native Affairs and Policy, April 30, 2024, “FCC Announces Tribal Consultation on Proposed Missing and Endangered Persons Emergency Alert System Code.”

<sup>37</sup> In-person Tribal consultations occurred in Phoenix, Arizona; Cherokee, North Carolina; and Wyandotte, Oklahoma. ONAP held a national virtual Tribal consultation on June 17, 2024. The Local Indigenous Leaders (LIL) of the National League of Cities and Native Public Media also met with CGB and ONAP staff to discuss the NPRM and related questions. Local Indigenous Leaders of the National League of Cities, June 13, 2024, *Ex Parte* Comments; Native Public Media, June 3, 2023, *Ex Parte* Comments.

<sup>38</sup> See *MEP NPRM* at \*6, para. 16 (citing BJA’s Ashanti Alert Act criteria: “(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”).



### Missing and Endangered Persons Who Do Not Qualify for an AMBER Alert

15. We find, as virtually all commenters affirm,<sup>39</sup> that adopting an MEP event code will make the EAS a more effective tool for finding missing and endangered persons. FEMA, which “maintain[s] the integrity” of IPAWS and, among other duties, “provid[es] guidance on the categories of public emergencies” meriting an alert, supports the creation of “a new event code to expand emergency messaging for MEPs that fall outside the current criteria of the AMBER Alert.”<sup>40</sup> FEMA lauds the EAS’ functionality and resiliency, and believes that implementation of an MEP event code in the same fashion as the CAE event code for AMBER Alerts presents “no constraints that would impede the EAS’s ability to contain the information required” for those alerts.<sup>41</sup> This position accords with the views of industry and public safety commenters who also support implementation of the MEP event code.<sup>42</sup>

16. We also find the views of Tribal and Indigenous communities supporting this action particularly compelling. These communities face a profound crisis of missing, endangered, abducted, and murdered persons.<sup>43</sup> As one Native American commenter pointed out, “the MEP event code can be

<sup>39</sup> See Native Public Media (NPM) Comments at 1; ACA Connects—America’s Communications Association (ACA Connects) and NTCA – The Rural Broadband Association (NTCA), (collectively, “ACA and NTCA”) Comments at 2; Federal Emergency Management Agency (FEMA) Comments at 3; Association of Public-Safety Communications Officials, International (APCO) Comments at 1; NCTA – The Internet & Television Association (NCTA) Comments at 1 (“members support efforts to improve and enhance EAS and do not oppose adoption of an MEP event code”); United South and Eastern Tribes, Inc. (USET) Comments at 2-3; Nevada Coalition to END Domestic and Sexual Violence (NCEDSV) Comments at 1-2; Planned Parenthood Votes Nevada Comments at 1; National Tribal Telecommunications Association (NTTA) Comments at 2; Southern Ute Indian Tribe Comments at 2; The Navajo Nation Comments at 2; Comments of Richard Alun Davis at 1. *But see* Seattle Indian Health Board (SIHB) and Urban Indian Health Institute (UIHI) Comments at 1 (advocating against a generically designated “MEP” code and preferring, instead, a code “specifically identif[y]ing the AI/AN population for which it is intended”).

<sup>40</sup> FEMA Comments at 1-2 and 3 (citations omitted).

<sup>41</sup> *Id.* at 5. Indeed, FEMA concludes the “proposed rule would promote stronger nationwide coordination on alerting for MEPs, address the existing discrepancies in alerts between different jurisdictions, mitigate public confusion on the meaning of various alerts, and ensure that federal rules and regulations cover more cases of MEPs.” *Id.* at 3.

<sup>42</sup> For example, ACA Connects—America’s Communications Association (ACA Connects) and NTCA (collectively, “ACA and NTCA”) “agree that ‘optimiz[ing] regional and nationwide search efforts for missing, endangered, or abducted persons’ is an ‘important public policy objective’ worth pursuing.” ACA and NTCA Comments at 2. Likewise, the Association of Public-Safety Communications Officials International (APCO), “supports the [MEP EAS event code] proposal, and asserts that “[e]stablishing the MEP event code will facilitate consistency, which will simplify the development of standard operating procedures, support collaboration between jurisdictions, and facilitate the rapid and coordinated delivery of alert notifications about missing and endangered persons to the public in a uniform manner.”) APCO Comments at 1. *See also* CTIA Comments at 2 (“CTIA supports the Commission’s efforts to enhance the WEA system [i.e., as adjunct to adopting the MEP EAS event code] to aid missing and endangered persons”); Planned Parenthood Votes Nevada Comments at 1 (“strongly support[ing] the FCC’s proposal to adopt the new MEP event code for the transmission of ‘ASHANTI [A]lerts’ through the Emergency Alert System (EAS)”); Brian Brashier’s Comments at 1 (“I know that the CAE (AMBER Alert) Code has been proven to assist first responders in locating children and thus, saving lives. I believe the establishment of an EAS code for Missing and Endangered adults will produce the same results[.]”).

<sup>43</sup> *See* NPM Comments at 4 (citing National Crime Information Center missing persons data to conclude that “[t]he disproportionate number of missing and murdered indigenous women and girls tells a grim and gut-wrenching story that demands urgent action. For far too long, tribal communities have faced an epidemic of violence and disappearances that has gone largely unnoticed by the broader public.”); Southern Ute Indian Tribe Comments at 1-2 (“While indigenous people only make up approximately two percent of the population they make up the second highest number of reported persons”) (footnote citation omitted); Navajo Nation Reply Comments at 1-2 (describing a 2023 scam operation involving, among other things, human trafficking that targeted Native American Communities, including the Navajo Nation); USET Comments at 3 (“Tribal citizens . . . are disproportionately

(continued....)

actively deployed to reach remote and underserved tribal communities, ensuring swift and efficient dissemination of critical information.”<sup>44</sup> Coordinated, often multi-jurisdictional law enforcement search, rescue, and recovery activities enhanced by an MEP EAS event code could have enormous life-saving value for AI/AN people as well as persons of color.<sup>45</sup>

17. Comments associated with the FCC’s Tribal consultations and *ex parte* meetings also resoundingly support adding the proposed MEP event code to EAS, which could then be sent using a WEA, which is seen as “a tool that would assist in recovery of missing and endangered persons” and, indeed, could “speed up the process to disseminate missing persons alerts.”<sup>46</sup> Comparing the proposed MEP code to AMBER Alerts, commenters expressed hope that the MEP code would be as effective as AMBER Alerts have been in helping to locate missing and endangered children.<sup>47</sup> Another noted that the lack of a national EAS alert code for missing and endangered adults is “one of the biggest barriers to the recovery of missing and endangered Indigenous people.”<sup>48</sup>

18. We find that it is in the public interest, as the vast majority of other commenters support, to facilitate notifications for all missing and endangered people, including AI/AN people, using the existing EAS mechanism.

19. *Technical and operational feasibility.* We find that it is technically and operationally feasible to send MEP alerts using the EAS. As FEMA observes in supporting our proposed use of EAS to deliver MEP alerts nationally, the EAS and the “alerting ecosystem” in which it operates “is the broadest

---

affected by instances of violence and abduction”); Planned Parenthood Votes Nevada Comments at 1 (“American Indian and Alaska Native people face a disproportionately high risk of violence and abduction”); NTTA Comments at 3 (quoting the Not Invisible Act Commissioner’s Report’s statement: “There is a crisis in Tribal communities. A crisis of violence, a crisis of abuse, and a crisis of abject neglect affecting Indian Women & Men, Indian Children, and Indian Elders.”).

<sup>44</sup> NPM Comments at 5.

<sup>45</sup> Native Public Media (NPM), for example, “strongly supports” the MEP EAS event code for multiple reasons, viewing it as a “critical step in addressing the crisis of missing and murdered indigenous persons, particularly women and girls.” NPM Comments at 1. Similarly, the United South and Eastern Tribes, Inc. (USET) “fully support[] the adoption of an MEP event code in the EAS to coordinate Tribal and non-Tribal public safety agency response to an MEP alert,” and note the reality that, when crimes take place on Tribal land, “the legal jurisprudence created by the United States requires a time consuming and complicated analysis necessary to determine who has jurisdiction.” USET Comments at 2. Black American missing persons data, *see* n. 3, *supra*, also point to a crisis in that community; we expect the MEP event code adopted today to help alleviate that crisis as well. *See also* “When a Black person goes missing, families say their cases get left behind,” PBS Newshour Report, May 31, 2024 (updated June 3, 2024) <https://www.pbs.org/newshour/nation/when-a-black-person-goes-missing-families-say-their-cases-get-left-behind>.

<sup>46</sup> Wyandotte Consultation, June 10, 2024 *Ex Parte* Comments at 1. *See also* Cherokee Consultation, June 10, 2024 *Ex Parte* Comments at 1 (“The Tribal Representatives at the consultation expressed support for the adoption of a dedicated code for missing and endangered persons to the EAS and WEA system.”); Local Indigenous Leaders of the National League of Cities Consultation, June 13, 2024, *Ex Parte* Comments at 2-3. (“Another participant recognized that that there are a multiple similar State and jurisdictional codes and related requirements for issuing these types of alerts. The participant expressed support for the FCC’s proposal for a national emergency alert code for missing and endangered persons and it would be beneficial to “get it all under one roof.”); Phoenix Consultation, June 13, 2024 *Ex Parte* Comments at 1-2 (Tribal representatives “expressed support for the addition of a MEP code to the EAS and WEA system as a tool that would assist in the recovery of missing and endangered persons” and hoped for implementation “sooner than later.” One participant explained that “because there is no EAS code for missing adults, family of missing Tribal members resort to ineffective posts on social media, and expressed their hope that an MEP EAS code would be far more effective in locating missing and endangered persons.”).

<sup>47</sup> Wyandotte Consultation *Ex Parte* Comments at 1.

<sup>48</sup> Phoenix Consultation *Ex Parte* Comments at 2.

and most resilient system for relaying emergency messages” and, indeed, there will be “no constraints that would impede the EAS’s ability” to function as proposed by the Commission.<sup>49</sup> The Navajo Nation, citing its own experience with Ashanti Alerts for Navajo people, asserts that “there are no constraints in the ability to send out imperative information through EAS under the Ashanti Alert.”<sup>50</sup> We agree, and we further observe that no commenter has suggested otherwise.

20. *Geographic Requirements.* We find that the code we adopt today strikes a proper balance between the need to avoid the deleterious effects of alerting misuse or overuse through appropriate geolocation while ensuring sufficient scope to aid location and recovery of missing and endangered persons. EAS’s effectiveness in managing the geographic targeting required for Blue Alerts (BLU) and AMBER Alerts (CAE), which the Commission acknowledged in the *BLU Report and Order*,<sup>51</sup> warrants a conclusion that the EAS will be similarly effective for alerts using the MEP event code. That effectiveness, in turn, will both advance the critical policy goal of finding and recovering missing and endangered persons, and enhancing the public’s trust in emergency alerts by avoiding unnecessarily broad activations that might contribute to warning fatigue.<sup>52</sup>

21. We expect that EAS Participants can and will accommodate both micro- and macro-area geographic alerting in the context of missing and endangered person alerts, as they do for Blue Alerts and AMBER Alerts now. Of course, geographic scope will be based on the Alert Originators’ inputs concerning the “emergency prompting” the alert, as with both Blue and AMBER alerts, but that is a matter of law enforcement discretion in originating and cascading the alert,<sup>53</sup> not an issue of whether the requirement poses technical feasibility challenges to the EAS, however broad or narrow that scope input is at origination.<sup>54</sup>

22. *IPAWS and Legacy EAS.* We agree with commenters such as FEMA and the Navajo

---

<sup>49</sup> FEMA Comments at 5.

<sup>50</sup> Navajo Nation Comments at 2-3.

<sup>51</sup> See *BLU Report and Order*, 32 FCC Rcd at 10815-16, para. 8.

<sup>52</sup> See *BLU Report and Order*, 32 FCC Rcd at 10815, para. 8, n.29 (citing APCO’s comments in the *Blue Alert NPRM* proceeding that “effective geo-targeting is important to preserve the public’s trust in emergency alerts,” and the City of New York’s comments supporting “limiting the targeted geographic areas of Blue Alerts to the maximum extent practicable due to concerns that regional transmission [of alerts] may cause unnecessary activation of EAS and contribute to warning fatigue”).

<sup>53</sup> ACA and NTCA argue that it should be made “clear that it is the responsibility of the alert originator to define the geographic scope of an Ashanti Alert consistent with this requirement, and that cable operators and other EAS Participants may simply pass through Ashanti Alerts as they do other alerts.” ACA and NTCA Comments at 3, n.7. We agree that the alert originator, possessing the facts associated with a given missing and endangered person emergency, bears the responsibility for entering adequate information to establish the proper geographic scope of the missing and endangered person alert to be transmitted via the EAS using its FIPS and other coding.

<sup>54</sup> Like Blue and AMBER Alerts, missing and endangered person alerts will have nationwide coverage potential, depending upon the initial geographical inputs of Alert Originators and the evolving set of professionals and stakeholders (state alerts coordinators, law enforcement agencies, emergency management agencies, state agency partners (i.e. state department of transportation), fusion centers, and broadcasters) needed to respond to or assist with an event. See Bureau of Justice Assistance, “Alerts Save Lives: A Unified Message Regarding the Need to Support Nationwide Alerts,” [https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/alerts\\_save\\_lives-0718.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/alerts_save_lives-0718.pdf) (last visited June 19, 2024) (Nationwide law enforcement “issue alerts to the public, media, and law enforcement and public safety partners via federal emergency alert systems, broadcasters, highway changeable message signs, and other notification systems when a person’s life is in danger and time is of the essence. This includes situations like a child abduction emergency, a violent criminal posing an imminent threat to law enforcement and the community, or a missing and endangered person.”) AMBER Alerts, Blue Alerts, Ashanti Alerts, and other missing and endangered person alerts we enable today through adoption of the MEP event code are part of the nationwide alerting supported by EAS and WEA.

Nation that EAS MEP Alerts sent via both the IPAWS and the legacy EAS broadcast “daisy chain” will provide the fullest possible support for MEP transmissions.<sup>55</sup> We see no discrepancy between the two delivery mechanisms material enough to prevent us from adopting the MEP event code as proposed.

23. As the Commission previously noted: “additional information cannot be relayed when CAP alerts are converted into legacy alerts for further distribution over the legacy EAS,<sup>56</sup> all data other than the header codes [and the audio reading of the alert] are lost in this conversion process.”<sup>57</sup> To address this issue, the Commission required EAS Participants to check for CAP-formatted messages when they receive state or local alert messages in legacy format, and if the same alert is available in CAP format, to relay the CAP version instead.<sup>58</sup> As a result, the benefits of the CAP formatted alert should always be available unless IPAWS is inaccessible, in which case the legacy format will still provide the audio description of the alert.

#### **B. A Dedicated MEP EAS Event Code is in the Public Interest**

24. We add the dedicated MEP event code to the EAS to advance the public interest and the purposes of the Ashanti Alert Act.<sup>59</sup> We believe that a dedicated EAS event code that expands MEP emergency messaging that fall outside the scope of AMBER Alerts will promote stronger nationwide coordination on Ashanti Alerts and other missing and endangered person alerts. It will also address jurisdictional alerting discrepancies, mitigate public confusion with respect to the meaning of various alerts, and ensure that more missing and endangered persons cases will be covered by the federal emergency communications system. In the end, we believe, this dedicated EAS event code will “help save lives of [missing and endangered persons] across the United States and Tribal Nations.”<sup>60</sup>

---

<sup>55</sup> See FEMA Comments at 5 (“If the FCC creates the new event code for MEPs following the same approach as the [AMBER Alert] CAE event code, FEMA believes there will be no constraints that would impede the EAS’s ability to contain the information required”); USET Comments at 2 (“USET firmly believes that all federally administered and funded alert systems must have the capability to transmit these events. Therefore, we support continued use of the EAS ‘daisy chain’ distribution architecture as well as the use of IP-based processes . . . for transmission under IPAWS.”); Navajo Nation Comments at 3 (asserting that “there are no constraints in the ability to send out imperative information through EAS under the Ashanti Alert [Act] . . . the Nation does have criteria similar to the Ashanti Alert and it can be communicated within two-minutes through the daisy chain that is provided by [the] Everbridge software the Nation obtains,” but also noting that the Nation “does not send EAS alerts routinely with extra rich text”); NPM Comments at 12 (“IPAWS enables federal, state, tribal, territorial, and local authorities to alert their communities about serious emergencies from a single interface. In delivering critical information to the public, IPAWS leverages” the EAS, WEA and “other public alerting systems.”).

<sup>56</sup> “For example, if enhanced text is included in a CAP alert, a video service EAS Participant (such as a TV broadcaster or cable system) that receives it will generate a visual message that includes not only the header code data (as is the case with legacy EAS alerts) but also that enhanced text, which might include remedial actions to avoid hazards potentially posed by the emergency event.” *Amendment of Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket No. 15-94, Report and Order, 37 FCC Rcd 11844, 11846, para. 6, n. 5 (2022) (*2022 EAS Accessibility Report and Order*).

<sup>57</sup> See *2022 EAS Accessibility Report and Order*, 37 FCC Rcd at 11846, para. 6.

<sup>58</sup> See *id.*, 37 FCC Rcd at 11847-48, para. 10.

<sup>59</sup> 47 CFR § 11.31(e).

<sup>60</sup> See FEMA Comments at 3. Indeed, we share FEMA’s AMBER Alert experience-based view—which shows that 73% of children are located within three hours following the issuance of an AMBER Alert—about the potential success of the MEP event code for missing and endangered adult persons using protocols similar to AMBER Alerts. *Id.* at 3-4. See also NPM Comments at 13 (stating that “the MEP code established within EAS would provide a clear, consistent trigger for issuing alerts across all participating media outlets and platforms. Standardizing criteria for activation would be nationwide, ensuring a baseline level of urgency and response regardless of location. . . . The benefits of such a system would be profound. It would send a clear message that the safety and well-being of

(continued....)

25. Moreover, adding missing and endangered person alerts to EAS will advance the important public policy objective of “encouraging states, territories, and Tribal governments to develop or enhance existing missing and endangered person and Ashanti Alert plans to optimize regional and nationwide search efforts for missing, endangered, or abducted persons.”<sup>61</sup> This is so, we believe, because of the expected results; the persons who are saved, found, and reunited with their families and communities may encourage policy makers and law enforcement stakeholders to embrace EAS-enabled efficiencies in existing plans and, where no such plans exist, to construct them to serve their communities. In this regard, we agree with FEMA, which asserts that the new MEP EAS event code would “promote stronger nationwide coordination” with respect to handling missing and endangered persons alerts, and also would “address the discrepancies in alerts between different jurisdictions” and help save the lives of missing and endangered persons.<sup>62</sup>

26. We conclude that alert originators may use the MEP event code for all missing and/or endangered people alerts that do not qualify for an AMBER alert, whether that is because the missing and/or endangered person is over 17 or does not meet other criteria for issuing an AMBER alert. As FEMA observes, expanding emergency messaging for MEPs that fall outside of the criteria of an AMBER Alert, “would promote stronger nationwide coordination on alerting for MEPs, address the existing discrepancies in alerts between different jurisdictions, mitigate public confusion on the meaning of various alerts, and ensure that federal rules and regulations cover more cases of MEPs.”<sup>63</sup> FEMA notes that its research “shows that more than forty missing and endangered alert names lack uniformity in alert criteria and/or requirements and can create public confusion, especially when traveling from state to state.”<sup>64</sup> We agree with FEMA that establishing a dedicated MEP code “will contribute to a national unified messaging approach to finding MEPs.”<sup>65</sup>

---

our missing and endangered adults—including [Missing Murdered Indigenous Women and Girls]—is a national priority, not a regional afterthought.”); NTTA Comments at 4 (“There is little or no doubt that a dedicated alert code of this type will save lives and will therefore greatly exceed any nationwide implementation costs.”); Navajo Nation Comments at 3 (“The Nation strongly believes that this MEP code would save lives if introduced.”); USET Comments at 3 (USET SPF believes that “adoption of a MEP EAS event code will help save lives, especially Tribal citizens who are disproportionately affected by instances of violence and abduction”); Planned Parenthood Votes Nevada Comments at 1; NCEDSV Comments at 2; ACA and NTCA Comments at 2.

<sup>61</sup> *MEP NPRM* at \*1, para. 2. In this regard, we observed the large number of Ashanti Alert, or Ashanti Alert-compliant Plans nationwide, and asked whether “a dedicated EAS event code [would] help ensure that Ashanti Alerts and related outreach are undertaken in a consistent manner nationally[.]” *Id.* at para. 21.

<sup>62</sup> FEMA Comments at 3. FEMA’s own IPAWS AMBER Alert-related research on the status of the nation’s missing and endangered person alert systems has revealed, among other things, “more than forty missing and endangered alert names lack[ing] uniformity in alert criteria and/or requirements . . . creat[ing] public confusion, especially when traveling from state to state.” *Id.* In FEMA’s view, a “dedicated EAS event code for MEPs,” along with the expected “subsequent policy, guidance, socialization, and public awareness campaigns,” would “contribute to a national unified messaging approach to finding MEPs.” Similarly, APCO believes that establishment and implementation of the proposed MEP EAS event code “will facilitate consistency” for missing persons alerts nationwide, “which will simplify the development of standard operating procedures, support collaboration between jurisdictions, and facilitate the rapid and coordinated delivery of alert notifications about missing and endangered persons to the public in a uniform manner.” APCO’s Comments at 1-2. We share APCO’s and FEMA’s outlook, and expect today’s action to serve as a critical step toward “a practical national approach” in addressing missing and endangered person events. *See id.* at 3-4. In this regard, we note, and will rely upon, FEMA’s pledge “to work closely with the FCC to inform and empower jurisdictions to use the MEP event code effectively and educate the public on its purpose and value.” *Id.* at 5.

<sup>63</sup> FEMA Comments at 3.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

27. We also find that this will further the goals of the Ashanti Alert Act. In their request for an MEP event code, the Ashanti Alert Working Groups offered a definition for an MEP code that uses “person” or “persons,” but not “adult.” To emphasize this point they write: “Note that the term adult is not added within this warning to differentiate same from CAE [the event code for AMBER Alerts] alerts because alerting agencies have noted that not all missing children fit the criteria outlined for an AMBER alert and as such the MEP code could be utilized when CAE alert criteria [are] not met.”<sup>66</sup> We agree with the Ashanti Alert Working Groups and other commenters who argue that an MEP event code should be able to be used for all missing and endangered person alerts that do not qualify for an AMBER Alert.<sup>67</sup> Providing the broadest parameters for an MEP event code will grant maximum flexibility to alerting authorities trying to find missing and endangered persons, including Tribal alert originators who may not want to be constrained by the Ashanti Alert criteria when using the EAS and WEA to find missing and/or endangered members of their community.

28. *Tribal and Indigenous Voices.* Tribal leaders, representatives, organizations and members also believe the MEP event code will lead to optimization of existing missing and endangered persons plans and encouragement of plan development throughout the nation. USET states that “adoption of MEP as a dedicated EAS event code would encourage EAS Participants to deliver missing and endangered persons and Ashanti Alert[s]” nationwide, “thereby facilitating the work of the National Ashanti Alert Network.”<sup>68</sup> USET also agrees that the MEP event code would promote “nationwide adoption and expansion of Ashanti Alerts while [] ensuring that missing and endangered persons that don’t meet the criteria of AMBER Alerts . . . are appropriately transmitted to the public.”<sup>69</sup> Similarly, the Navajo Nation commends the EAS as “extremely efficient and effective” in its experience using it and WEA.<sup>70</sup>

29. NPM extols IPAWS and asserts that “the MEP code established within EAS would provide a clear, consistent trigger for issuing alerts across all participating media outlets and platforms.”<sup>71</sup> NPM further believes that “[s]tandardizing criteria for activation [by way of EAS and IPAWS] would be nationwide, ensuring a baseline level of urgency and response regardless of location.”<sup>72</sup>

---

<sup>66</sup> Ashanti Alert Working Groups Comments at 2.

<sup>67</sup> See Comments of Alfred Bagdonas at 1 (“WEA and EAS MEP code is definitely needed. It should not be restricted by age . . . As an example, it could be critical for use when a missing autistic 10 year old child has walked away during severe weather. This does not qualify as a CAE, nor would it meet the age restrictions of the Ashanti Act.”).

<sup>68</sup> USET Comments at 2-3.

<sup>69</sup> *Id.* at 3.

<sup>70</sup> Navajo Nation Comments at 2 (“The MEP code would be of great assistance with missing and endangered person alerts. Currently there are no constraints in the ability to send out imperative information through EAS under the Ashanti Alert.”).

<sup>71</sup> NPM Comments at 12. See also NTTA Comments at 2 (asserting that the MEP code would be “designed to bridge the gap between AMBER and Silver Alerts” and, as such, would “have the potential of saving numerous lives”).

<sup>72</sup> *Id.* at 12-13. Indeed, NTTA believes the NPRM presents a “compelling case” for a dedicated MEP EAS event code to address the “sizeable gap between . . . AMBER Alerts . . . and Silver Alerts” nationwide. See NTTA Comments at 3 (and adding that “there is no national code dedicated to missing Indigenous persons, although such a system has been under consideration for nearly five years. This gap must be addressed.”). See also Comments of Kyler Edsitty (describing the MEP code as part of an “holistic approach” to providing “critical nation-wide assistance to individuals who may be experiencing distress or imminent danger” that “underscores . . . commitment to addressing the underlying factors that may contribute to their disappearance, ultimately promoting a more compassionate and effective response to such situations in Indian Country”); NPM Comments at 13. That said,

(continued....)

30. Commenters, including FEMA, industry, and Tribal voices support an EAS event code solely dedicated to MEP alerts. These commenters agree it will promote and catalyze uniformity with respect to efforts to locate and recover missing and endangered persons, promote the creation of Ashanti Alert Plans and Ashanti Alert-compliant Plans where they may not currently exist, and aid the integration of such plans into a coordinated national framework consistent with the Ashanti Alert Act's stated goals.

31. We believe that adoption of a single MEP code is appropriate at this time.<sup>73</sup> Although nearly all AI/AN, Tribal, and Indigenous commenters favored swiftly moving forward with an MEP EAS event code as principally proposed in the *MEP NPRM*,<sup>74</sup> some favor a Tribal-specific MIP (Missing Indigenous Person) or similar event code for EAS soon thereafter, while others call for only an MIP event code and others call for only an MEP event code.<sup>75</sup> We believe a single MEP event code will advance the cause of aiding in the rescue of Native persons and will monitor implementation of the new event code to make sure that is the case.

### C. WEA Delivery of MEP Alerts

32. We permit MEP alerts to be deployed via WEA using existing alerting methodologies and consistent with our WEA rules. We believe that using the existing technologies will ensure a swift

---

NPM calls for substantive steps, with the encouragement and support of the Commission, to empower Tribes *in their own efforts* to combat the “epidemic of missing and murdered indigenous persons, particularly women and girls.” *Id.* at 14. Indeed, NPM asks the Commission to delegate to ONAP the “role of reaching out to tribes, encouraging them to assume the role of an IPAWS Alerting Authority for their respective jurisdictions, and providing the support they may need to do so.” *Id.* Based on FEMA’s comments, we believe FEMA would support such an effort. *See* FEMA Comments at 5 (“FEMA aims to work closely with the FCC to inform and empower jurisdictions to use the MEP event code effectively and educate the public on its purpose and value”).

<sup>73</sup> *See* Phoenix Tribal Consultation *Ex Parte* at 2-3 (One participant explained that there is a need for uniformity across the country, including tribal lands and reservations. This participant opined that an MEP code “needs to be for all Americans,” explaining that “even though tribes are disproportionately affected,” a unique code for one tribe, for example, if different than another tribe, would mean tribes “can’t talk to each other.”).

<sup>74</sup> *See, e.g.,* NPM Comments at 1; USET Comments at 3; Navajo Nation Comments at 2-3; NTTA Comments at 2; Lighthorse Police Department Comments at 1; Chris Bedeau Comments at 1; NCAI Comments at 3 (containing resolution urgently calling for MEP code to be established); Kyler Edsitty Comments at 1; Cherokee Tribal Consultation *Ex Parte* at 1; Wyandotte Tribal Consultation *Ex Parte* at 1.

<sup>75</sup> USET falls into this last category, expressing its belief that “an additional EAS event code [does not need] to be developed for missing or endangered persons on or off Tribal Lands” and preferring, instead, “adoption of a[n] MEP EAS event code that can broadly capture and transmit the necessary information to alert the public about missing and endangered persons in a specified geographic area.” USET Comments at 3. The Seattle Indian Health Board and the Urban Indian Health Institute, on the other hand, argue that the proposed EAS event code will *not* aid in cases involving missing AI/AN people *unless* it is named in a manner that “specifically identifies the AI/AN population.” SIHB and UIHI Comments at 1. We do not read SIHB’s comments to express opposition to the implementation of a dedicated EAS event code for missing and endangered persons generally, or to express support for such a code only to be used for AI/AN people and not others. Rather, we read it plainly as a desire to ensure that, if the code is designed to aid in cases “involving a missing American Indian and/or Alaska Native,” it should be named accordingly. The Commission recognized the crisis of missing and endangered Indigenous people in the *MEP NPRM*; however, we also recognize that the MEP code will help recover missing and endangered persons in other affected communities, including persons with mental or physical disabilities. Additionally, adopting an MEP code does not preclude local jurisdictions, including Tribal Nations, from using the MEP code to disseminate various alerts that identify specific populations of concern that fall within the MEP code criteria. *See MEP NPRM* at \*1, para. 1 (“[W]e initiate a proceeding to . . . adopt a new EAS event code for Missing and Endangered Persons ‘MEP.’ . . . While of a *widespread concern*, this issue is particularly prevalent in Tribal communities. . . . With this proposal to establish a dedicated MEP event code, the FCC is taking a step to facilitate the more efficient and widespread dissemination of alerts and coordinated responses to incidents involving *all* missing and endangered persons—including Indigenous persons—across multiple jurisdictions.”) (emphases added).



implementation of the new code. We thus agree with CTIA's and the Alliance for Telecommunications Industry Solutions' (ATIS') suggestion that we use an existing WEA classification<sup>76</sup> to achieve our alerting goals here. In addition, we agree with those commenters addressing the question that the logical WEA alert class choices are the Imminent Threat class and the Public Safety Message alert class.<sup>77</sup>

33. We observed in the *MEP NPRM* that the WEA system is a “tool for authorized federal, state, local and Tribal government[s]” to provide geographically targeted alerts and warnings to WEA-capable mobile devices of participating commercial mobile service (CMS) providers' subscribers.<sup>78</sup> However, WEA “does not use event codes” like the EAS; rather, EAS alert origination software and FEMA IPAWS ‘map’ EAS event codes onto WEA handling codes corresponding to the alert message classifications the Commission has authorized for issuance over WEA.<sup>79</sup> These classifications, currently, are National Alert, Imminent Threat Alert, AMBER Alert, and Public Safety Message.<sup>80</sup>

34. We agree with ATIS that there would be no “technical impacts to Commercial Mobile Service Provider (CMSP) networks or mobile devices if the EAS MEP event code is mapped to any existing WEA alert class.”<sup>81</sup> As ATIS notes, the required mapping would “occur prior to the arrival of the alert message at the CMSP network,” and there would be no need for device modifications to reflect any “user choice for opting in/out because all existing alert classes are already represented in the device WEA menus.”<sup>82</sup> We also agree with CTIA that using an “existing alert class to implement any MEP alert will help avoid costly changes and potential backwards compatibility issues to handsets and Participating CMSP networks, as well as costly and time-consuming end-to-end testing and new device roll-out—all of which would delay the availability of the alert.”<sup>83</sup>

35. In the *BLU Report and Order*, we declined to adopt a new alert classification for Blue Alerts<sup>84</sup> and further chose not to specify one of the existing WEA classifications for Blue Alerts.<sup>85</sup> Instead, we left these issues “teed up in the *Blue Alert NPRM*” proceeding . . . to help gather additional

---

<sup>76</sup> CTIA Comments at 2-3. See ATIS Comments at 2-3.

<sup>77</sup> See APCO Comments at 2; CTIA Comments at 4-6.

<sup>78</sup> *MEP NPRM* at \*10, para. 30.

<sup>79</sup> *Id.*

<sup>80</sup> See 47 CFR § 10.400.

<sup>81</sup> ATIS Comments at 2-3.

<sup>82</sup> *Id.* That said, and as CTIA recommends, CTIA Comments at 3, we believe that implementation of an MEP event code also “should include secure Alert Originator authentication in the [IPAWS] and be accompanied by education for consumers and Alert Originators to support consistent alert handling and avoid alert fatigue and opt-outs by consumers.” In this regard, we will defer to FEMA to ensure such authentication and education, consistent with FEMA's assurances that it will “work[] with the FCC, the broadcast industry, Alert Originators, and relevant stakeholders” for successful implementation of the new MEP event code. FEMA Comments at 4.

<sup>83</sup> *Id.* at 3-4. The introduction of a new alert class, on the other hand, “would require potentially significant updates” to the applicable wireless technical “standards, devices, Participating CMSP networks, as well as extensive end-to-end testing.” *Id.* See also ATIS Comments at 3-4 (explaining that modifications and other changes driven by establishing a new WEA alert class for the proposed MEP code, e.g., CAP changes, interface updates between FEMA IPAWS and CMSP networks, other interface changes and modifications to ATIS' standards, “would significantly increase testing time, as the signaling would have to be tested in each individual link, followed by integration and end-to-end testing”).

<sup>84</sup> *BLU Report and Order*, 32 FCC Red at 10821, para. 19.

<sup>85</sup> *Id.* (“we permit Blue Alerts to be deployed via WEA using existing alerting methodologies and consistent with our WEA rules”).

information on this issue beyond what the record currently contains.”<sup>86</sup> We chose this temporary course in order to “reduce the necessary time for Blue Alerts to become available on WEA, and [to] reduce the costs to WEA stakeholders,” i.e., of establishing a new classification.<sup>87</sup> We do so again here.

#### D. Implementation Schedule

36. In the *MEP NPRM*, the Commission sought 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.”<sup>88</sup> Because of the similar technical and public safety-related steps involved, we proposed the same timeframe as that chosen in the *BLU Report and Order*, where we required EAS equipment manufacturers to integrate BLU EAS event codes into equipment not yet manufactured or sold, and to make necessary software upgrades available to EAS Participants, within 12 months of the rules’ effective date.<sup>89</sup> We also proposed to allow EAS Participants, as in the *BLU Report and Order*, to implement the new MEP event code “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.”<sup>90</sup> We adopt those approaches here.

37. We allow a period of 12 months from the effective date of the rules to enable the delivery of missing and endangered person alerts over EAS and over WEA. While we “encourage stakeholders to work together voluntarily to implement” MEP Alerts in swift fashion in order to capture “the important public safety objectives involved,”<sup>91</sup> the record reflects that implementation is not merely turn-key. Rather, some time is necessary for equipment manufacturers and CMSPs to prepare their equipment and networks to be able to process alerts sent with an MEP event code over EAS and WEA,<sup>92</sup> as well as for alert originators, EAS Participants, and other stakeholders to acquire appropriate training and resources to deliver these alerts to the public if they choose to do so. This implementation schedule will ensure all stakeholders have sufficient time to address any technical, resource, and training needs they may require to ensure the successful delivery of missing and endangered person alerts.

38. The Navajo Nation supports the Commission’s 12-month implementation proposal<sup>93</sup> and urges the Commission to move swiftly to implement the MEP event code.<sup>94</sup> They acknowledge that

---

<sup>86</sup> *Id.*

<sup>87</sup> *See id.* (finding that “issuance of Blue Alerts using WEA’s existing standards and structures at least as a temporary measure will be effective, will reduce the necessary time for Blue Alerts to become available on WEA, and will reduce the costs to WEA stakeholders”).

<sup>88</sup> *MEP NPRM* at \*9, para. 28.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at para. 29.

<sup>91</sup> *BLU Report and Order*, 32 FCC Rcd at 10822, para. 21.

<sup>92</sup> Participating CMS Providers are Commercial Mobile Service Providers that have voluntarily elected to transmit Alert Messages under subpart B of the part 10 WEA rules. 47 CFR § 10.10(f).

<sup>93</sup> Navajo Nation Comments at 3. Additionally, the Nation “urges the creation of a Federal-Tribal working group tasked with monitoring the roll-out of the code and making recommendations to ensure its maxi[mum] effectiveness.” *Id.*

<sup>94</sup> NPM Comments at 1, 10. NPM, through its Native Broadcast Network, “operates sixty radio and three television stations” as part of its “mission to serve American Indian Tribes and Alaska Native Villages through media and communications.” *Id.* at 2. *See also* NTTA Comments at 2 (the code—and NTTA’s (and others) proposed code dedicated to missing and endangered Indigenous Persons—“should be activated as soon as possible”). *See also* Phoenix Consultation *Ex Parte* Comments at 2 (“Multiple participants articulated the importance of Tribal sovereignty in the implementation and administration of the MEP code, expressing the desire for Tribes to exercise their independent jurisdictional authority as alert code originators.”); Virtual Session Consultation, June 17, 2024,

(continued....)

implementation, especially if it is to be effective for Tribal communities and Indigenous people, will entail “comprehensive training, culturally sensitive outreach, and a holistic approach that respects tribal sovereignty.”<sup>95</sup> Additionally, multiple individuals commented at the Commission’s Tribal consultation and listening sessions regarding the need for socialization, outreach, and training for Tribal nations regarding implementation and adoption of the MEP code, and raised questions regarding available funding and support for tribal nations.<sup>96</sup> NPM, like FEMA, pledges to work with the Commission and others in this regard.<sup>97</sup>

39. No commenter objected to our proposed timeline. FEMA, while not commenting on the proposed implementation timeline, pledges “to work closely with the FCC to inform and empower jurisdictions” in the effective use of the MEP event code,<sup>98</sup> and to work with “the FCC, the broadcast industry, Alert Originators (AOs), and relevant stakeholders to determine how alerts using the MEP event code can be successfully implemented.”<sup>99</sup> We take this to mean that FEMA, which controls IPAWS, is committed to doing its part to ensure the MEP event code is operationalized as swiftly as possible and does not object to a 12-month timetable.

40. NCTA takes issue with our incremental time estimates in the *MEP NPRM*, arguing that the “process takes weeks to months, not a few hours as the Notice suggests.”<sup>100</sup> We proposed 12 months for implementation, which is consistent with NCTA’s contention. We also note that NCTA does not suggest that 12 months, overall, is insufficient for the labors and operations needed. Thus, we have, as NCTA urged, “take[n] notice” of the processes involved in calibrating a 12-month implementation requirement; we do not read NCTA’s comments to take issue with that overall.<sup>101</sup> The Commission understands the technical issues involved in implementing the new event code and appropriately sets the implementation deadline to address those concerns.<sup>102</sup>

---

*Ex Parte* at 2 (“One commenter tied the importance of Tribal sovereignty to the earlier discussion regarding the definition of a ‘missing and endangered person.’ This participant commented that Tribes should have alerting authority and be able to be the originator of an MEP alert, and determine the criteria for when to release an alert.”).

<sup>95</sup> *Id.* at 1, 8. *See also* Virtual Session Consultation, *Ex Parte* Comments at 3 (“One participant emphasized that education and training will be critical to the MEP code’s success.” . . . “Another participant also emphasized the importance of training and acknowledged that different generations may have different affinities and aptitudes for different generations of technology.”).

<sup>96</sup> *See e.g.* Cherokee Consultation, *Ex Parte* comments at 2 (commenting on the need for training and accountability measures, particularly among law enforcement officials, and noting that their research showed law enforcement often does not use Amber and Silver alerts due to lack of training, which slows the recovery of missing persons.). *See also id.* at 2 (raising questions about funding, specifically asking about federal funding for tribes wishing to become alerting authorities).

<sup>97</sup> *Id.* at 8-9.

<sup>98</sup> FEMA Comments at 5.

<sup>99</sup> *Id.* at 4.

<sup>100</sup> NCTA Comments at 3-4 (“five hours of labor for each EAS Participant [i.e., to perform low-cost software downloads] is off by orders of magnitude”).

<sup>101</sup> *Id.* (“Full implementation . . . will require operators not only to download and install software in each of their EAS encoder/decoders, but also to test the new software on a variety of downstream devices, operating systems, and signaling formats and protocols in their video distribution systems end-to-end.”).

<sup>102</sup> Wireless industry commenters take a slightly different approach to the timeline question. Like its EAS-stakeholder counterparts, CTIA does not suggest an alternative timeline. However, CTIA asserts that the Commission can “significantly reduce[] the time necessary to implement” the alerts by “preserving the existing handling codes.” CTIA Comments at 4 (citing *Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System; Wireless Emergency Alerts*, Report and Order and Further Notice of Proposed

(continued....)

41. When the Commission addressed virtually identical issues in the *BLU Report and Order*, it followed NCTA's suggestion, then, that we look to "EAS manufacturers to determine the adequacy of the time allocated for software upgrades to equipment."<sup>103</sup> There, the Commission noted comments from EAS equipment manufacturers "that 12 months is sufficient to allow for the [Blue Alerts] event code to be deployed within a scheduled in-version equipment software update, resulting in no incremental cost to EAS Participants, rather than as a scheduled major version upgrade that would have to be separately purchased."<sup>104</sup>

42. We choose to follow our determination in the *BLU Report and Order* and require a 12-month implementation deadline for both EAS Participants and CMSPs. In the *BLU Report and Order*, we acknowledged the soundness of 12 months for EAS Participants on the theses presented there, as described above, and we believe these are mostly identical to the present MEP event code. However, in the *BLU Report and Order*, CMSPs contested a 12-month implementation deadline and specifically sought 18 months due to the technical requirements they anticipated (including concurrent implementation of then-pending wireless industry technical standards).<sup>105</sup> Those issues are not present here because the standards have now been set and implemented.<sup>106</sup> Rather, CMSPs conveyed confidence in implementation *assuming we do not order a new WEA classification for these alerts*,<sup>107</sup> which we do not choose to do. Accordingly, we adopt the same 12-month implementation schedule for CMSPs as for EAS Participants.

43. Finally, the *MEP NPRM* proposed to allow EAS Participants to upgrade their equipment to add a designated MEP event code on a voluntary basis until their equipment is replaced. This proposal is the same as, or very similar to, the approach the Commission took with Blue Alerts in 2017 and with other new EAS event codes in the past.<sup>108</sup> Commenters who addressed this issue agree.<sup>109</sup> Accordingly, we adopt our proposal, and permit EAS Participants to update their software to add the MEP event code on a voluntary basis. As the Commission observed in the *NWS Report and Order*, and re-affirmed in the *BLU Report and Order*, "the use by EAS Participants of these codes is and has always been voluntary, and it would be contrary to the voluntary nature of state and local EAS to mandate upgrades to existing

---

Rulemaking, 36 FCC Rcd 10694 (2021) (*National Alerts Order*). ATIS amplifies this position, adding a warning that, *if* the Commission decides to create a new WEA alert class for MEP, ATIS estimates that it would take "36-54 months to complete the necessary end-to-end modifications," whereas adoption through an established WEA alert class would not have "any technical impact on WEA," that is, in terms of "implementation time (i.e., time to field)." ATIS Comments at 2.

<sup>103</sup> *BLU Report and Order*, 32 FCC Rcd at 10822, para. 22 (citation omitted).

<sup>104</sup> *Id.* (citations omitted).

<sup>105</sup> *See id.* at paras. 21-22.

<sup>106</sup> *See* CTIA Comments at 3 (confirming enhancements to the EAS and WEA systems, "including introduction of Blue Alerts in the EAS system and accommodating their transmission as WEAs").

<sup>107</sup> *See* CTIA Comments at 3 ("Using an existing alert class to implement any MEP alert will help to avoid costly changes and potential backwards compatibility issues to handsets and Participating CMSP networks, as well as costly and time-consuming end-to-end testing and new device roll-out—all of which would delay the availability of the alert.").

<sup>108</sup> *MEP NPRM* at \*9, para. 29. *See BLU Report and Order*, 32 FCC Rcd at 10823-24, para. 23 (citing *NWS Report and Order*, 31 FCC Rcd at 7926, para. 27). This approach is consistent with the Ashanti Alert Act, which states that "[t]he minimum standards established under section 21904(a) of this title, and any other guidelines and programs established under section 21903 of this title, shall be adoptable on a voluntary basis only." 34 USC § 21905.

<sup>109</sup> *See* NCTA Comments at 3; ACA and NTCA Comments at 2-3.

EAS equipment to incorporate new optional event codes.”<sup>110</sup> We again find that this approach will significantly reduce the costs to EAS Participants.

#### **E. Further Examination of Tribal-Specific Issues**

44. We sought comment in the *MEP NPRM* on additional issues that affect implementation of the MEP event code we approve today. For example, we invited comment on: (i) whether to consider a missing Tribal or Indigenous person-specific EAS code in addition to the MEP event code; (ii) how to ensure adequate protection of civil liberties, sensitive medical information, and other privacy-related issues; and (iii) public awareness, outreach, and engagement to ensure that the MEP code effectively conveys an “appropriate sense of urgency to the public and galvanize[s] the public . . . to aid in the finding of missing or endangered adults.”<sup>111</sup>

45. NPM addresses these questions in part by asking the Commission to engage with Tribes, as sovereign nations, to empower and aid their efforts to address the missing and endangered persons crisis uniquely imperiling their communities. In that regard, NPM asks the Commission to, among other things, encourage Tribes to become IPAWS Alerting Authorities and, through ONAP outreach (which necessarily would involve other alerting stakeholders, such as FEMA and DOJ), provide them the support needed to achieve that status. NPM looks to ensure that all participants in the MEP ecosystem “recognize that this work is a sacred trust.”<sup>112</sup>

46. We think there is merit to NPM’s suggested approach, given the value in ensuring the EAS efficiently and effectively addresses the plight of the missing in AI/AN communities. We are interested in how such an approach might be implemented (e.g., bringing together stakeholders from AI/AN communities, FEMA, EAS Participants, law enforcement, and other trusted alerting system stakeholders to aid a process of understanding and implementation germane to Tribal communities). Accordingly, we will continue to consider this subject through further engagement between ONAP and members of AI/AN communities, which ideally should occur in tandem with the roll-out of the MEP event code.

#### **F. Analysis of Costs and Benefits**

47. We conclude that the benefits of implementing the MEP EAS event code, and permitting MEP alerts to be deployed via WEA using existing alerting methodologies and consistent with our WEA rules, outweigh its costs. In this regard, we draw extensively on the Commission’s experience with the implementation of new EAS event codes<sup>113</sup> and acknowledge the potential benefits of missing and endangered person alerts issued via an MEP EAS event code and WEA alerts, with respect to which nearly all commenters in this proceeding agree. We find that most of the potential costs of implementation arise from software updates made outside of the normal course of planned upgrades. We allow sufficient time and flexibility to allow manufacturers and EAS Participants and CMSPs to make upgrades and to conduct associated testing in tandem with general software upgrades installed during the regular course of business, thus minimizing costs. The rules we adopt today present many potential benefits by keeping the public informed and vigilant *via* the issuance of alerts, and by enlisting their aid to more quickly locate and recover missing and endangered persons, as well as the same kinds of cost reductions for 911 call centers and emergency responders the Commission outlined in the *BLU Report*

---

<sup>110</sup> *BLU Report and Order*, 32 FCC Rcd at 10823-24, para. 23 (quoting *NWS Report and Order*, 31 FCC Rcd at 7927, para. 28 (other internal quotations omitted)).

<sup>111</sup> *MEP NPRM* at \*8-9, paras. 24-27.

<sup>112</sup> *Id.* at 18. NPM suggests that this could occur under guidance set by a “vision and values” statement that establishes a core, compassionate, and enduring commitment to the human beings at the center of the missing AI/AN persons crisis. *Id.*

<sup>113</sup> *BLU Report and Order*, 32 FCC Rcd at 10824, para. 24.

and Order.<sup>114</sup>

48. *Costs.* We find, as suggested in the *MEP NPRM*, that the main cost to EAS Participants that elect to install MEP will be the cost involved in downloading the software updates into their devices and conducting associated testing.<sup>115</sup> In the *MEP NPRM*, we posited that adopting an MEP Alert EAS event code would present similar technical issues to those raised in the *BLU Report and Order*, and, accordingly, tentatively concluded that the costs for adding a dedicated missing and endangered person alert EAS event code would not exceed a one-time \$12 million implementation ceiling. We carefully explained our rationale for that calculation.<sup>116</sup> No industry or other commenter has challenged this tentative conclusion. Accordingly, we adopt the Commission's tentative conclusion from the *MEP NPRM* and find that a dedicated missing and endangered person alert EAS event code would not exceed a one-time \$12 million implementation cost. Further, we note that EAS Participants can avoid most incremental implementation costs by downloading the new MEP event code in conjunction with a scheduled software update.

49. Although we recognize that EAS equipment manufacturers will incur some costs in making the new event code available to all EAS Participants,<sup>117</sup> we believe that 12 months will provide sufficient time to dovetail the MEP upgrade with other scheduled upgrades, posing minimal expense to equipment manufacturers. We believe that the costs for implementation of WEA—given our decision not to require a new alert classification—will be similarly low. As such, we believe there will be no, or only low, incremental costs associated with the delivery of missing and endangered person alerts over WEA, and that the 12 months we grant to Participating CMS Providers is sufficient to allow providers to minimize the costs of deployment.

50. *Benefits.* We anticipate that establishing the EAS MEP event code and allowing MEP alerts through WEA will improve emergency alerting during events described in DOJ's Ashanti Alert criteria,<sup>118</sup> as well as other missing and endangered person scenarios, thereby helping law enforcement locate and recover missing and endangered persons and return them to their regular lives. Existing EAS event codes, such as CAE (AMBER) and LEW (law enforcement warning), are either unavailable for missing and endangered adults (AMBER) or do not effectively identify missing and endangered person alerts to the public (LEW).<sup>119</sup> While precise numerical estimation is not possible, we expect that the MEP event code will improve public safety outcomes for missing and endangered persons in a similar fashion

---

<sup>114</sup> See *id.* at 10824-26, paras. 24-27 (citing *Wireless Emergency Alerts, Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket No. 15-91, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 11112, 11168-74, paras. 89-95 (2016) (*WEA Report and Order and FNPRM*)).

<sup>115</sup> See *Blue Alert NPRM*, 32 FCC Rcd at 5288, para. 25.

<sup>116</sup> See *MEP NPRM* at \*11, para. 34 n.78.

<sup>117</sup> See *BLU Report and Order*, 32 FCC Rcd at 10824-25, para. 25.

<sup>118</sup> See Bureau of Justice Assistance Fact Sheet, <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/National-Ashanti-Alert-Network-Fact-Sheet.pdf> (listing the three Ashanti Alert activation criteria: individuals over the age of 17; missing adults with special needs or circumstances; missing adults who are endangered or have been involuntarily abducted or kidnapped).

<sup>119</sup> See *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order, 17 FCC Rcd 4055, 4065, paras. 18-20. See also Alfred Kenyon Comments at 3-4 (“[T]he current work-around using LAE, LEW, or CEM results in self-contradiction within the resulting EAS message which serves to decrease public understanding and response. By providing a clear distinction between Missing and Endangered Person alerts and LAE, LEW, or CEM alerts, EAS Participants will be allowed to adjust the filters in their EAS devices to provide the level of action and response to incoming EAS messages that they deem appropriate for each situation based [on] the needs of their community.”).

to CAE and AMBER Alerts.<sup>120</sup> We note the success of AMBER Alerts, where 180 out of the 181 AMBER Alerts issued in 2022 resulted in a recovery, with respect to which 16 were as a direct result of an AMBER Alert being issued.<sup>121</sup> In contrast, Ashanti Alerts have not been as effective as AMBER Alerts.<sup>122</sup> We anticipate that using a dedicated MEP Event code in the EAS and the corresponding WEA handling codes would greatly improve the effectiveness of the alerts for missing and endangered persons not currently covered by AMBER Alerts. Given that fewer than one third of active missing persons records involves children under the age of 18,<sup>123</sup> we anticipate the number of the MEP Alerts per year would be at least double the number of AMBER Alerts.<sup>124</sup> We believe it is reasonable to expect that many more missing and endangered persons will be located and recovered due to the issuance of an EAS missing and endangered person alert that uses the MEP event code.<sup>125</sup> Extrapolating the recovery of missing children directly attributable to AMBER Alerts,<sup>126</sup> we estimate that more than 15 additional

---

<sup>120</sup> See *MEP NPRM* at \*10, para. 32. See also FEMA Comments at 4 (“a unified MEP event code will address many missing persons who currently fall outside the requirements for use of the federal EAS Child Abduction Emergency (CAE) event code”); NPM Comments at 9 (“The stark reality is that adults can and do go missing under dangerous circumstances every day. Whether due to cognitive impairments such as dementia or Alzheimer’s, mental health crises, domestic violence, or other factors, these individuals are at grave risk of harm or exploitation. While the AMBER Alert has been instrumental in the safe recovery of numerous children, adult cases do not fit the strict criteria for AMBER Alerts . . . The proposed creation of a unique EAS event code for missing and endangered adults, distinct from the existing frameworks for AMBER and Silver Alerts, is a necessary and overdue step to protect some of our most vulnerable citizens. . . . We urge the Commission to move swiftly to implement the MEP event code and give our missing and endangered adults the best possible chance to be found and brought home safely.”); Virtual Consultation, June 17, 2024 *Ex Parte* Comments at 2 (“One participant observed that her Tribe’s adoption of Amber Alerts was highly successful, explaining that the eight times that their tribe issued an Amber [A]lert, the missing child was successfully recovered. The participant also observed that these alerts had been disseminated throughout the three states surrounding the Tribal reservation, and suggested that this wide dissemination was a part of the success.”).

<sup>121</sup> DOJ, *Amber Alert Report 2022*, p. 7 (2023), <https://amberalert.ojp.gov/publications/2022-amber-alert-report.pdf>.

<sup>122</sup> For instance, Virginia issued 16 Ashanti Alerts between July 2018 and January 2023, resulting in eight missing persons safely located. See Letter from Robert P. Mosier, Secretary of Public Safety and Homeland Security, Commonwealth of Virginia Office of the Governor, to Senator Mark R. Warner at 5, Exhibit 5 (Feb. 2, 2023), [https://www.warner.senate.gov/public/\\_cache/files/9/f/9fca8e28-a0ef-4a14-8b4f-f8ce38174444/0CD0B55C44112C12D168AF5C1C07A844.attachment-for-ashanti-interviews.pdf](https://www.warner.senate.gov/public/_cache/files/9/f/9fca8e28-a0ef-4a14-8b4f-f8ce38174444/0CD0B55C44112C12D168AF5C1C07A844.attachment-for-ashanti-interviews.pdf). This 50% eight recovered cases in 16 Ashanti Alerts recovery rate is about half as effective as the AMBER Alert’s recovery rate of 99.4% (180 recovered cases in 181 AMBER Alerts).

<sup>123</sup> See *supra* note 2 (stating that, as of December 31, 2023, there were 96,955 active missing person records, of which roughly 68,000 were 18 or older).

<sup>124</sup> This estimate is likely an underestimation because NCIC users are not mandated under federal law to submit missing person records of adults over the age of 21. Therefore, although records of missing adults are captured, the NCIC does not include the complete number of adults who go missing and are not reported to the database. Congressional Research Service, *Missing Adults: Background, Federal Programs, and Issues for Congress* at 4 (Aug. 23, 2019), <https://crsreports.congress.gov/product/pdf/RL/RL34616/34>.

<sup>125</sup> See, e.g., AMBER Alert – Statistics, <https://amberalert.ojp.gov/statistics> (“As of December 31, 2023, 1,200 children were successfully recovered through the AMBER Alert system and 180 children were rescued because of wireless emergency alerts.”); see also National Center for Missing & Exploited Children, *2022 AMBER Alert Report* at 5, <https://amberalert.ojp.gov/publications/2022-amber-alert-report.pdf> (“What began as a local effort in the Dallas-Fort Worth area has grown into a seamless nationwide initiative, with many other countries following suit. AMBER Alerts in the United States have continued to make use of every available technology. From the initial program launch in October of 1996 through December 2022, at least 1,133 children have been confirmed as safely recovered due to an AMBER Alert being issued.”); Virtual Session Consultation, June 17, 2024 *Ex Parte* at 2.

<sup>126</sup> We calculate that 99.4% (180 of 181) of AMBER Alert cases result in a recovery, and conservatively estimate an approximately 8.8% (16 of 181) case recovery rate as a *direct result* of AMBER Alerts.



missing adults per year would be recovered as a result of this *Order*.<sup>127</sup> The recovery could prevent deaths and bodily harm that these missing persons may otherwise have to endure. Therefore, the benefits to public safety as a result of this *Order* could be substantial. If even one life is saved due to these recoveries, the public safety benefits would outweigh the costs.<sup>128</sup> We conclude that the minor burdens associated with adopting the MEP code will be more than offset by its benefits.<sup>129</sup> We also conclude that, given the potential for lifesaving and reduction in harm, if even the number of missing persons equals those found due to AMBER Alerts, and definitely if it exceeds it, this item will result in excess of \$100 million in benefits.

#### IV. PROCEDURAL MATTERS

##### A. Accessible Formats

51. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

##### B. Regulatory Flexibility Analysis

52. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>130</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>131</sup> Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities. The FRFA is set forth in Appendix B.

##### C. Paperwork Reduction Analysis

53. This document does not contain proposed information collection(s) subject to the

---

<sup>127</sup> We assume current Ashanti Alerts are half as effective as AMBER Alerts; we expect the case recovery as a direct result of existing Ashanti Alert would be 4.4% ( $= \frac{1}{2} \times 8.8\%$ ). By assigning a designated MEP code for missing and endangered persons, we expect the Order will increase the recovery rate by at least 4.4% ( $= 8.8\%$  AMBER Alerts direct case recovery rate – 4.4% Ashanti Alert direct case recovery rate) to match the AMBER Alert direct case recovery rate of 8.8%. *See supra* notes 127 & 131. Assuming there would be twice as many MEP Alerts issued under the Order as AMBER Alerts (e.g., 181 AMBER Alerts  $\times$  2 = 362 MEP Alerts), we estimate that over 15 missing adults per year (363 MEP Alerts  $\times$  4.4% incremental direct recovery rate = 15.9 missing person cases) would be recovered as a result of this Order. This estimate is likely underestimated because missing adults are under-reported in the NCIC database. *See supra* note 128.

<sup>128</sup> While we do not attempt to place a value on human life, we note that the amount consumers are willing to pay to reduce mortality risk is approximately \$12.5 million, using a methodology developed by the U.S. Department of Transportation (DOT) that we have relied on in past orders. *See, e.g., Location-Based Routing for Wireless 911 Calls*, PS Docket No. 18-64, Report and Order, FCC 24-4, at 52, para. 118 (Jan. 26, 2024) (*LBR Order*) (citing the value of \$12.5 million in 2022 based on U.S. Department of Transportation, *Departmental Guidance on Valuation of a Statistical Life in Economic Analysis* (Mar. 4, 2022) (later updated to \$13.2 million in 2023), <https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis>). Hence, even with one life saved, the \$12.5 million in benefit of mortality risk reduction clearly outweighs the estimated cost ceiling of \$12 million.

<sup>129</sup> *See* NTTA Comments at 4 (“When compared to lives saved, [\$12 million for implementing MEP nationwide] is a small price to pay[.] . . . Assuming an equal or greater success rate [compared to AMBER Alerts], the only conclusion that can be drawn is implementing a dedicated MEP alert code, and a dedicated Missing and Endangered Indigenous Persons code, meets and greatly exceeds any cost/benefit analysis that can be conceived.”).

<sup>130</sup> 5 U.S.C. §§ 601–612. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>131</sup> 5 U.S.C. § 605(b).

Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

**D. Congressional Review Act**

54. The Commission will submit this draft Report and Order to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for concurrence as to whether this rule is “major” or “non-major” under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA).<sup>132</sup>

**E. Availability of Documents**

55. This Report and Order will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. These documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554.

**F. Additional Information**

56. For additional information on this proceeding, contact David Kirschner, [David.Kirschner@fcc.gov](mailto:David.Kirschner@fcc.gov) or (202) 418-0695, Public Safety and Homeland Security Bureau.

**V. ORDERING CLAUSES**

57. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4(i), 4(n), 303(r), 303(v), 624(g), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(n), 303(r), 303(v), 544(g), 606, this *Report and Order* IS ADOPTED.

58. IT IS FURTHER ORDERED that the Commission’s rules ARE HEREBY AMENDED as set forth in Appendix A.

59. IT IS FURTHER ORDERED that the rules and requirements adopted herein, including at Appendix A, to enable the delivery of missing and endangered person alerts over EAS WILL BECOME EFFECTIVE 12 months from the date of publication in the Federal Register.

60. IT IS FURTHER ORDERED that the rules and requirements adopted herein, including at Appendix A, to enable the delivery of missing and endangered person alerts over WEA WILL BECOME EFFECTIVE 12 months from the date of publication in the Federal Register.

61. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

62. IT IS FURTHER ORDERED that the Commission’s Office of Secretary, SHALL SEND a copy of this *Report and Order* including the Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

---

<sup>132</sup> *See* 5 U.S.C. § 801(a)(1)(A).

Marlene H. Dortch  
Secretary

**APPENDIX A**  
**Final Rules**

For the reasons discussed above, the Federal Communications Commission amends 47 C.F.R. part 11 to read as follows:

**PART 11 – EMERGENCY ALERT SYSTEM (EAS)**

1. The authority citation for part 11 is revised to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (n), 303(r), 544(g), 606, 1201 and 1206.

2. Effective 12 months after publication in the Federal Register, 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 to table 2 to paragraph (e) reads as follows:

**§ 11.31 EAS protocol.**

\* \* \* \* \*

(e)

<b>Nature of activation</b>	<b>Event codes</b>
National Codes (Required):	
Emergency Action Notification (National only)	EAN.
National Information Center	NIC
National Periodic Test	NPT.
Required Monthly Test	RMT.
Required Weekly Test	RWT.
State and Local Codes (Optional):	
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.
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.
<b>Missing and Endangered Persons</b>	<b>MEP.</b>

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.
Winter Storm Warning	WSW.
Winter Storm Watch	WSA.

## APPENDIX B

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was included in the *Wireless Emergency Alerts; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System Notice of Proposed Rulemaking (MEP NPRM)* released in March 2024.<sup>2</sup> The Commission sought written public comment on the proposals in the *MEP NPRM*, including comments on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**A. Need for, and Objectives of, the Order**

2. The *Order* advances the important public policy of encouraging the formation, enhancement, and integration of Ashanti Alert plans throughout the United States, and for other purposes,<sup>4</sup> by “establish[ing] a voluntary nationwide communication network 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.”<sup>5</sup> As required by the Ashanti Alert Act of 2018 (Ashanti Alert Act), the Department of Justice (DOJ) has designated the Bureau of Justice Assistance (BJA) as the Ashanti Alert Coordinator<sup>6</sup> which, in turn, has developed guidance for “states, Indian Tribes, local governments, law enforcement agencies, and other stakeholders seeking to establish or enhance an existing Ashanti Alert Plan” in a manner that will promote compatible and integrated missing and endangered person plans throughout the United States.<sup>7</sup> The *Order* creates and adds a dedicated missing and endangered persons (MEP) event code to the Emergency Alert System (EAS) Protocol for Ashanti Alerts, and permits MEP alerts to be deployed via Wireless Emergency Alerts (WEA) using existing alerting methodologies and consistent with our WEA rules. It also establishes a period of 12 months from the effective date of the rules to enable the delivery of Ashanti Alerts over EAS, and over WEA. Ashanti Alert carriage, and use of the MEP event code will be voluntary.<sup>8</sup> EAS Participants who decide to carry missing and endangered person alerts, including Ashanti Alerts, should be able to accommodate the new code with a software upgrade of equipment already in place but not yet capable of handling these codes. Any new equipment allowed under existing rules is either similarly upgradeable or will already be programmed to handle the code.

3. The *Order* promotes the development of compatible and integrated Ashanti Alert plans throughout the United States, consistent with the Ashanti Alert Act,<sup>9</sup> and supports the need for a dedicated EAS event code for missing and endangered person alerts. The *Order* also describes the integration of missing and endangered person alerts into WEA.

---

<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See *Wireless Emergency Alerts; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket Nos. 15-91, 15-94, Notice of Proposed Rulemaking, 2024 WL 1191983, Appendix B (March 15, 2024) (*MEP NPRM*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> 34 U.S.C. § 21901, *et. seq.*

<sup>5</sup> *Ashanti Alert Notification System Overview*. See also *Ashanti Alert Fact Sheet*.

<sup>6</sup> 34 U.S.C. § 21903.

<sup>7</sup> 34 U.S.C. §§ 21902 and 21903.

<sup>8</sup> See, e.g., 47 CFR § 11.55(a); 47 CFR § 11.52(d)(5). See also *First Report and Order*, 20 FCC Rcd at 18628, para. 8.

<sup>9</sup> 34 U.S.C. § 50501 *et. seq.*



**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

4. There were no comments filed that specifically address the proposed rules and policies presented in the IRFA.

**C. Response to Comments by Chief Counsel for Advocacy of the Small Business Administration**

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.<sup>10</sup>

5. The Chief Counsel did not file any comments in response to the proposed rule changes in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply**

6. 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 rules adopted herein.<sup>11</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>12</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>13</sup> 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).<sup>14</sup>

7. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.<sup>15</sup> First, while there are industry-specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>16</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.<sup>17</sup>

8. 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.”<sup>18</sup> The

---

<sup>10</sup> 5 U.S.C. § 604 (a)(3).

<sup>11</sup> *Id.* § 604(a)(4).

<sup>12</sup> *Id.* § 601(6).

<sup>13</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>14</sup> 15 U.S.C. § 632

<sup>15</sup> 5 U.S.C. § 601(3)-(6).

<sup>16</sup> See SBA, Office of Advocacy, “What’s New With Small Business?,” <https://advocacy.sba.gov/wp-content/uploads/2023/03/Whats-New-Infographic-March-2023-508c.pdf> (Mar. 2023).

<sup>17</sup> *Id.*

<sup>18</sup> 5 U.S.C. § 601(4).

Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>19</sup> Nationwide, for tax year 2022, there were approximately 530,109 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.<sup>20</sup>

9. 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.”<sup>21</sup> 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.<sup>22</sup> Nationwide, for tax year 2022, there were approximately 530,109 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.<sup>23</sup>

10. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.<sup>24</sup> 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.<sup>25</sup> The SBA size standard for this industry classifies a business as small if it has

---

<sup>19</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>20</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2022 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

<sup>21</sup> 5 U.S.C. § 601(4).

<sup>22</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>23</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2022 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

<sup>24</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>25</sup> *Id.*

1,500 or fewer employees.<sup>26</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.<sup>27</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>28</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.<sup>29</sup> Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.<sup>30</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum encompasses services in the 1850-1910 and 1930-1990 MHz bands.<sup>31</sup> The closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite).<sup>32</sup> The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>33</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>34</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>35</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

12. Based on Commission data as of November 2021, there were approximately 5,060 active licenses in the Broadband PCS service.<sup>36</sup> 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

---

<sup>26</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>27</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>28</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>29</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>30</sup> *Id.*

<sup>31</sup> See 47 CFR § 24.200.

<sup>32</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite)"*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>33</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>34</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>35</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>36</sup> Based on a FCC Universal Licensing System search on November 16, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)," Radio Service = CW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

the preceding three years.<sup>37</sup> Winning bidders claiming small business credits won Broadband PCS licenses in C, D, E, and F Blocks.<sup>38</sup>

13. 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, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

14. *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.<sup>39</sup> 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.<sup>40</sup> Wireless Telecommunications Carriers (*except Satellite*)<sup>41</sup> 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.<sup>42</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>43</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>44</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

15. According to Commission data as of December 2021, there were approximately 4,211 active Narrowband PCS licenses.<sup>45</sup> 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.<sup>46</sup> 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

---

<sup>37</sup> See 47 CFR § 24.720(b).

<sup>38</sup> See Federal Communications Commission, Office of Economics and Analytics, Auctions, Auctions 4, 5, 10, 11, 22, 35, 58, 71 and 78, <https://www.fcc.gov/auctions>.

<sup>39</sup> See 47 CFR § 24.5.

<sup>40</sup> *Id.*

<sup>41</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except Satellite*)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>42</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>43</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>44</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>45</sup> Based on a FCC Universal Licensing System search on December 10, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = CN; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

<sup>46</sup> See 47 CFR § 24.321(a)(1)-(2).

of not more than \$15 million.<sup>47</sup> Pursuant to these definitions, 7 winning bidders claiming small and very small bidding credits won approximately 359 licenses.<sup>48</sup> 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.<sup>49</sup>

16. 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

17. *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.<sup>50</sup> Wireless Telecommunications Carriers (*except* Satellite)<sup>51</sup> 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.<sup>52</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>53</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>54</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

18. 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

---

<sup>47</sup> *Id.*

<sup>48</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 41: Narrowband PCS, Summary, Closing Charts, License By Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/41/charts/41cls2.pdf>; Auction 50: Narrowband PCS, Summary, Closing Charts, License By Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/50/charts/50cls2.pdf>.

<sup>49</sup> Based on a FCC Universal Licensing System search on December 10, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = CN; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>50</sup> See 47 CFR §§ 27.1 – 27.1607.

<sup>51</sup> See U.S. Census Bureau, 2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>52</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>53</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>54</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.



Commission's rules for the specific WCS frequency bands.<sup>55</sup>

19. 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

20. *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)<sup>56</sup> 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.<sup>57</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>58</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>59</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

21. According to Commission data as of December 2021, there were approximately 224 active 700 MHz Guard Band licenses.<sup>60</sup> 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.<sup>61</sup> 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.<sup>62</sup> None of the winning bidders claiming a small business status classification in these 700 MHz

---

<sup>55</sup> See 47 CFR §§ 27.201 – 27.1601. The Designated entities sections in Subparts D – Q each contain the small business size standards adopted for the auction of the frequency band covered by that subpart.

<sup>56</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>57</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>58</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>59</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>60</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WX; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

<sup>61</sup> See 47 CFR § 27.502(a).

<sup>62</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 33: Upper 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/33/charts/33cls2.pdf>, Auction 38: Upper 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/38/charts/38cls2.pdf>.

Guard Band license auctions had an active license as of December 2021.<sup>63</sup>

22. 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

23. *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.<sup>64</sup> Wireless Telecommunications Carriers (*except* Satellite)<sup>65</sup> 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.<sup>66</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>67</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>68</sup> Thus, under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

24. According to Commission data as of December 2021, there were approximately 2,824 active Lower 700 MHz Band licenses.<sup>69</sup> The Commission's small business size standards with respect to Lower 700 MHz Band licensees 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

---

<sup>63</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WX; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

<sup>64</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auctions 44, 49, 60: Lower 700 MHz Band, Fact Sheet, Permissible Operations, <https://www.fcc.gov/auction/44/factsheet>, <https://www.fcc.gov/auction/49/factsheet>, <https://www.fcc.gov/auction/60/factsheet>.

<sup>65</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>66</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>67</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>68</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>69</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WY, WZ; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

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.<sup>70</sup> In auctions for Lower 700MHz Band licenses, 72 winning bidders claiming a small business classification won 329 licenses,<sup>71</sup> 26 winning bidders claiming a small business classification won 214 licenses,<sup>72</sup> and three winning bidders claiming a small business classification won all five auctioned licenses.<sup>73</sup>

25. 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

26. *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.<sup>74</sup> 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.<sup>75</sup> Wireless Telecommunications Carriers (*except Satellite*)<sup>76</sup> 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.<sup>77</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>78</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>79</sup> Thus,

---

<sup>70</sup> See 47 CFR § 27.702(a)(1)-(3).

<sup>71</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 44: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/44/charts/44cls2.pdf>.

<sup>72</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 49: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/49/charts/49cls2.pdf>.

<sup>73</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 60: Lower 700 MHz Guard Bands, Summary, Closing Charts, Licenses by Bidder, <https://www.fcc.gov/sites/default/files/wireless/auctions/60/charts/60cls2.pdf>.

<sup>74</sup> See 47 CFR § 27.4.

<sup>75</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 73: 700 MHz Band, Fact Sheet, Permissible Operations, <https://www.fcc.gov/auction/73/factsheet>. We note that in Auction 73, Upper 700 MHz Band C and D Blocks as well as Lower 700 MHz Band A, B, and E Blocks were auctioned.

<sup>76</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except Satellite*)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>77</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>78</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>79</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.



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

27. According to Commission data as of December 2021, there were approximately 152 active Upper 700 MHz Band licenses.<sup>80</sup> The Commission's small business size standards with respect to Upper 700 MHz 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.<sup>81</sup> Pursuant to these definitions, three winning bidders claiming very small business status won five of the 12 available licenses.<sup>82</sup>

28. 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

29. *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.<sup>83</sup> Wireless Telecommunications Carriers (*except* Satellite)<sup>84</sup> 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.<sup>85</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>86</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>87</sup> Thus, under the SBA size standard, the Commission

---

<sup>80</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = WP, WU; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

<sup>81</sup> See 47 CFR § 27.502(a).

<sup>82</sup> See *Auction of 700 MHz Band Licenses Closes; Winning Bidders Announced for Auction 73*, Public Notice, DA-08-595, Attachment A, Report No. AUC-08-73-I (Auction 73) (March 20, 2008). The results for Upper 700 MHz Band C Block can be found on pp. 62-63.

<sup>83</sup> See 47 CFR § 27.1(b).

<sup>84</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite)"*, <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>85</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>86</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>87</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

estimates that a majority of licensees in this industry can be considered small.

30. According to Commission data as December 2021, there were approximately 4,472 active AWS licenses.<sup>88</sup> 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.<sup>89</sup> Pursuant to these definitions, 57 winning bidders claiming status as small or very small businesses won 215 of 1,087 licenses.<sup>90</sup> In the most recent auction of AWS licenses 15 of 37 bidders qualifying for status as small or very small businesses won licenses.<sup>91</sup>

31. 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

32. *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,"<sup>92</sup> 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)).<sup>93</sup> 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.<sup>94</sup>

---

<sup>88</sup> Based on a FCC Universal Licensing System search on December 10, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = AD, AH, AT, AW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

<sup>89</sup> See 47 CFR §§ 27.1002, 27.1102, 27.1104, 27.1106.

<sup>90</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 66: Advanced Wireless Services (AWS-1), Summary, Spreadsheets, <https://www.fcc.gov/sites/default/files/wireless/auctions/66/charts/66cls2.pdf>.

<sup>91</sup> See *Auction of Advanced Wireless Services (AWS-3) Licenses Closes; Winning Bidders Announced for Auction 97*, Public Notice, DA-15-131, Attachments A-B, (Auction No. 97) (January 30, 2015).

<sup>92</sup> The use of the term "wireless cable" does not imply that it constitutes cable television for statutory or regulatory purposes.

<sup>93</sup> See 47 CFR § 27.4; see also *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, Report and Order, 10 FCC Rcd 9589, 9593, para. 7 (1995).

<sup>94</sup> Generally, a wireless cable system may be described as a microwave station transmitting on a combination of BRS and EBS channels to numerous receivers with antennas, such as single-family residences, apartment complexes, hotels, educational institutions, business entities and governmental offices. The range of the

(continued...)

33. In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (*except* Satellite).<sup>95</sup> The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>96</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>97</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>98</sup> Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

34. According to Commission data as December 2021, there were approximately 5,869 active BRS and EBS licenses.<sup>99</sup> 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.<sup>100</sup> 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.<sup>101</sup> One of the winning bidders claiming a small business status classification in the BRS license auction has an active licenses as of December 2021.<sup>102</sup>

35. 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 years, and a very

---

transmission depends upon the transmitter power, the type of receiving antenna and the existence of a line-of-sight path between the transmitter or signal booster and the receiving antenna.

<sup>95</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>96</sup> See 13 CFR § 121.201, NAICS Code 517312.

<sup>97</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>98</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>99</sup> Based on a FCC Universal Licensing System search on December 10, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =BR, ED; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

<sup>100</sup> See 47 CFR § 27.1218(a).

<sup>101</sup> See Federal Communications Commission, Economics and Analytics, Auctions, Auction 86: Broadband Radio Service, Summary, Reports, All Bidders, <https://www.fcc.gov/sites/default/files/wireless/auctions/86/charts/86bidder.xls>.

<sup>102</sup> Based on a FCC Universal Licensing System search on December 10, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =BR; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

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 years.<sup>103</sup> 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 we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

36. *The Educational Broadcasting Services.* Cable-based educational broadcasting services fall under the broad category of the Wired Telecommunications Carriers industry.<sup>104</sup> 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.<sup>105</sup> Transmission facilities may be based on a single technology or a combination of technologies.<sup>106</sup> 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.<sup>107</sup>

37. The SBA small business size standard for this industry classifies businesses having 1,500 or fewer employees as small.<sup>108</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.<sup>109</sup> Of this total, 2,964 firms operated with fewer than 250 employees.<sup>110</sup> 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.<sup>111</sup> The Commission estimates that the majority of these licenses are held by non-profit educational institutions and school districts and are likely small entities.

---

<sup>103</sup> See 47 CFR § 27.1219(a).

<sup>104</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>. Examples of this category are: broadband Internet service providers (e.g., cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed circuit television (CCTV) services; VoIP service providers, using owner operated wired telecommunications infrastructure; direct-to-home satellite system (DTH) services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (MMDS).

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> See 13 CFR § 121.201, NAICS Code 517311.

<sup>109</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>110</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>111</sup> Based on a FCC Universal Licensing System search on December 17, 2021. <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service =ED; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more license.

38. *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.<sup>112</sup> 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.<sup>113</sup> The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small.<sup>114</sup> U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.<sup>115</sup> Of this number, 624 firms had fewer than 250 employees.<sup>116</sup> Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

39. *Software Publishers.* This industry comprises establishments primarily engaged in computer software publishing or publishing and reproduction.<sup>117</sup> 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.<sup>118</sup> These establishments may design, develop, and publish, or publish only.<sup>119</sup> The SBA small business size standard for this industry classifies businesses having annual receipts of \$41.5 million or less as small.<sup>120</sup> U.S. Census Bureau data for 2017 indicate that 7,842 firms in this industry operated for the entire year.<sup>121</sup> Of this number 7,226 firms had revenue of less than \$25 million.<sup>122</sup> Based on this data, we conclude that a majority of firms in this industry are small.

40. *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

---

<sup>112</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing," <https://www.census.gov/naics/?input=334220&year=2017&details=334220>.

<sup>113</sup> *Id.*

<sup>114</sup> See 13 CFR § 121.201, NAICS Code 334220.

<sup>115</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 334220, <https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePrevious=false>. At this time, the 2022 Economic Census data is not available.

<sup>116</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>117</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "511210 Software Publishers," <https://www.census.gov/naics/?input=511210&year=2017&details=511210>.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> See 13 CFR § 121.201, NAICS Code 511210.

<sup>121</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 511210, <https://data.census.gov/cedsci/table?y=2017&n=511210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePrevious=false>.

<sup>122</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).



operated by a municipality which transmits only noncommercial programs for education purposes.

41. The SBA small business size standards and U.S. Census Bureau data classify radio stations<sup>123</sup> and television broadcasting<sup>124</sup> 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 \$47 million or less in annual receipts as small.<sup>125</sup> 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.<sup>126</sup> 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.<sup>127</sup> While the U.S. Census Bureau data does not indicate the number of non-commercial stations, we estimate that under the applicable SBA size standard the majority of noncommercial educational broadcast stations and public broadcast stations are small entities. According to Commission data as of March 31, 2024, there were 4,703 licensed noncommercial educational radio and television stations<sup>128</sup> In addition, the Commission estimates as March 31, 2024, there were 383 licensed noncommercial educational (NCE) television stations, 379 Class A TV stations, 1,829 LPTV stations and 3,118 TV translator stations.<sup>129</sup> 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, we will presume that all noncommercial educational and public broadcast stations qualify as small entities under the above SBA small business size standards.

42. *Radio Stations.* This industry is comprised of “establishments primarily engaged in

---

<sup>123</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515112 Radio Stations,”* <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

<sup>124</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515120 Television Broadcasting,”* <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

<sup>125</sup> See 13 CFR § 121.201, NAICS Code 515112 (Radio Stations) (as of 10/1/22 NAICS Code 516110); NAICS Code 515120 (Television Broadcasting) (as of 10/1/22 NAICS Code 516120).

<sup>126</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated for the entire year. We also note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We further note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>127</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>128</sup> *Broadcast Station Totals as of March 31, 2024*, Public Notice, DA 24-323 (rel. Apr. 4, 2024) (*April 2024 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-24-323A1.pdf>.

<sup>129</sup> *Id.*

broadcasting aural programs by radio to the public.”<sup>130</sup> Programming may originate in their own studio, from an affiliated network, or from external sources.<sup>131</sup> The SBA small business size standard for this industry classifies firms having \$47 million or less in annual receipts as small.<sup>132</sup> U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year.<sup>133</sup> Of this number, 1,879 firms operated with revenue of less than \$25 million per year.<sup>134</sup> Based on this data and the SBA’s small business size standard, we estimate a majority of such entities are small entities.

43. The Commission estimates that as of June 30, 2024, there were 4,413 licensed commercial AM radio stations and 6,620 licensed commercial FM radio stations, for a combined total of 11,033 commercial radio stations.<sup>135</sup> Of this total, 11,032 stations (or 99.99 %) had revenues of \$47 million or less in 2023, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on July 3, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of June 30, 2024, there were 4,356 licensed noncommercial (NCE) FM radio stations, 1,965 low power FM (LPFM) stations, and 8,906 FM translators and boosters.<sup>136</sup> 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, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

44. We note, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations<sup>137</sup> must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our 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. We are 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

---

<sup>130</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515112 Radio Stations,”* <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

<sup>131</sup> *Id.*

<sup>132</sup> See 13 CFR § 121.201, NAICS Code 515112 (as of 10/1/22 NAICS Code 516110).

<sup>133</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available. We note that the US Census Bureau withheld publication of the number of firms that operated for the entire year.

<sup>134</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>135</sup> *Broadcast Station Totals as of June 30, 2024*, Public Notice, DA 24-644 (rel. July 3, 2024) (*July 2024 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-24-644A1.pdf>.

<sup>136</sup> *Id.*

<sup>137</sup> “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR § 21.103(a)(1).

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.

45. *FM Translator Stations and Low-Power FM Stations.* FM translators and Low Power FM Stations are classified in the industry for Radio Stations.<sup>138</sup> The Radio Stations industry comprises establishments primarily engaged in broadcasting aural programs by radio to the public.<sup>139</sup> Programming may originate in their own studio, from an affiliated network, or from external sources.<sup>140</sup> The SBA small business size standard for this industry classifies firms having \$47 million or less in annual receipts as small.<sup>141</sup> U.S. Census Bureau data for 2017 show that 2,963 firms operated during that year.<sup>142</sup> Of that number, 1,879 firms operated with revenue of less than \$25 million per year.<sup>143</sup> Therefore, based on the SBA’s size standard we conclude that the majority of FM Translator stations and Low Power FM Stations are small. Additionally, according to Commission data, as of March 31, 2024, there were 8,913 FM Translator Stations and 1,960 Low Power FM licensed broadcast stations.<sup>144</sup> The Commission however 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, we presume the majority of these stations are small entities.

46. *Television Broadcasting.* This industry is comprised of “establishments primarily engaged in broadcasting images together with sound.”<sup>145</sup> These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.<sup>146</sup> 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 \$47 million or less in annual receipts

---

<sup>138</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515112 Radio Stations,”* <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> See 13 CFR § 121.201, NAICS Code 515112 (as of 10/1/22 NAICS Code 516110).

<sup>142</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available. We note that the US Census Bureau withheld publication of the number of firms that operated for the entire year.

<sup>143</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with annual receipts that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>144</sup> *Broadcast Station Totals as of March 31, 2024*, Public Notice, DA 24-323 (rel. Apr. 4, 2024) (*April 2024 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-24-323A1.pdf>.

<sup>145</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515120 Television Broadcasting,”* <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

<sup>146</sup> *Id.*



as small.<sup>147</sup> 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year.<sup>148</sup> Of that number, 657 firms had revenue of less than \$25,000,000.<sup>149</sup> Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

47. As of June 30, 2024, there were 1,384 licensed commercial television stations.<sup>150</sup> Of this total, 1,307 stations (or 94.4%) had revenues of \$47 million or less in 2023, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 3, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of June 30, 2024, there were 382 licensed noncommercial educational (NCE) television stations, 379 Class A TV stations, 1,821 LPTV stations and 3,100 TV translator stations.<sup>151</sup> 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, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

48. *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.<sup>152</sup> 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.<sup>153</sup> The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.<sup>154</sup> The SBA small business size standard for this industry classifies firms with annual receipts less than \$41.5 million as small.<sup>155</sup> Based on U.S. Census Bureau data for 2017, 378 firms operated in this industry during that year.<sup>156</sup> Of that number, 149 firms operated with revenue of less than

---

<sup>147</sup> See 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120).

<sup>148</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>149</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>150</sup> *Broadcast Station Totals as of June 30, 2024*, Public Notice, DA 24-644 (rel. July 3, 2024) (*July 2024 Broadcast Station Totals PN*), <https://docs.fcc.gov/public/attachments/DA-24-644A1.pdf>.

<sup>151</sup> *Id.*

<sup>152</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “515210 Cable and Other Subscription Programming,” <https://www.census.gov/naics/?input=515210&year=2017&details=515210>.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> See 13 CFR § 121.201, NAICS Code 515210.

<sup>156</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515210, <https://data.census.gov/cedsci/table?y=2017&n=515210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. The US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies (see Cell Notes for this category).

\$25 million a year and 44 firms operated with revenue of \$25 million or more.<sup>157</sup> Based on this data, the Commission estimates that the majority of firms operating in this industry are small.

49. *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.<sup>158</sup> Based on industry data, there are about 420 cable companies in the U.S.<sup>159</sup> Of these, only seven have more than 400,000 subscribers.<sup>160</sup> In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.<sup>161</sup> Based on industry data, there are about 4,139 cable systems (headends) in the U.S.<sup>162</sup> Of these, about 639 have more than 15,000 subscribers.<sup>163</sup> Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

50. *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."<sup>164</sup> 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.<sup>165</sup> Based on industry data, only six cable system operators have more than 498,000 subscribers.<sup>166</sup> Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose

---

<sup>157</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in all categories of revenue less than \$500,000 to avoid disclosing data for individual companies (*see* Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>158</sup> 47 CFR § 76.901(d).

<sup>159</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

<sup>160</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions, Top 10* (April 2022).

<sup>161</sup> 47 CFR § 76.901(c).

<sup>162</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

<sup>163</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022).

<sup>164</sup> 47 U.S.C. § 543(m)(2).

<sup>165</sup> *FCC Announces Updated Subscriber Threshold for the Definition of Small Cable Operator*, Public Notice, DA 23-906 (MB 2023) (*2023 Subscriber Threshold PN*). In this Public Notice, the Commission determined that there were approximately 49.8 million cable subscribers in the United States at that time using the most reliable source publicly available. *Id.* This threshold will remain in effect until the Commission issues a superseding Public Notice. *See* 47 CFR § 76.901(e)(1).

<sup>166</sup> S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 06/23Q* (last visited Sept. 27, 2023); S&P Global Market Intelligence, *Multichannel Video Subscriptions, Top 10* (April 2022).

gross annual revenues exceed \$250 million.<sup>167</sup> Therefore, we are unable at this time 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.

51. *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.”<sup>168</sup> 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.<sup>169</sup> U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.<sup>170</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>171</sup> 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.<sup>172</sup> Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.<sup>173</sup> Consequently, using the SBA’s small business size standard, approximately two-thirds of these providers can be considered small entities.

52. *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.<sup>174</sup> 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.<sup>175</sup> 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.<sup>176</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small.<sup>177</sup> U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry

---

<sup>167</sup> The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority’s finding that the operator does not qualify as a small cable operator pursuant to § 76.901(e) of the Commission’s rules. See 47 CFR § 76.910(b).

<sup>168</sup> See U.S. Census Bureau, 2017 NAICS Definition, “517410 Satellite Telecommunications,” <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>169</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>170</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>171</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>172</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>173</sup> *Id.*

<sup>174</sup> See U.S. Census Bureau, 2017 NAICS Definition, “517919 All Other Telecommunications,” <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

that operated for the entire year.<sup>178</sup> Of those firms, 1,039 had revenue of less than \$25 million.<sup>179</sup> Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

53. *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.<sup>180</sup> Transmission facilities may be based on a single technology or combination of technologies.<sup>181</sup> 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.<sup>182</sup> By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>183</sup>

54. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>184</sup> U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year.<sup>185</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>186</sup> 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.<sup>187</sup> DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, we must conclude based on internally developed Commission data, in general

---

<sup>178</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>179</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>180</sup> See U.S. Census Bureau, *2017 NAICS Definition, “517311 Wired Telecommunications Carriers,”* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>181</sup> *Id.*

<sup>182</sup> See *id.* Included in this industry are: broadband Internet service providers (e.g., cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed-circuit television (CCTV) services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (DTH) services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (MMDS).

<sup>183</sup> *Id.*

<sup>184</sup> See 13 CFR § 121.201, NAICS Code 517311.

<sup>185</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>.

<sup>186</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>187</sup> See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eighteenth Report*, Table III.A.5, 32 FCC Rcd 568, 595 (Jan. 17, 2017).

DBS service is provided only by large firms.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

55. The *Order* will impose new or additional reporting, recordkeeping, and/or other compliance obligations on small entities, including EAS Participants that choose to use the new MEP code, and small EAS equipment manufactures. As proposed in the *MEP NPRM*, use of the MEP event code for EAS is voluntary. We allow a period of 12 months from the effective date of the rules to enable the delivery of Ashanti Alerts over EAS, and 12 months from the effective date of the rules to enable the delivery of Ashanti Alerts over WEA. This will allow time for the equipment manufacturers and Commercial Mobile Service Providers (CMSPs) to prepare their equipment and networks to be able to process Ashanti Alerts sent over EAS and WEA. This will also allow EAS Participants and other stakeholders to acquire the training and resources to deliver Ashanti Alerts to the public.

56. We find that most of the potential costs of implementation arise from software updates made outside of the normal course of planned upgrades and estimate that a dedicated Ashanti Alert EAS event code would not exceed a one-time \$12 million implementation cost. The main cost is to EAS Participants, in that those who elect to install the MEP alert code will bear the cost involved in downloading the software updates into their devices, and any associated clerical work.<sup>188</sup> We minimize additional costs by allowing sufficient time and flexibility so that manufacturers and EAS Participants may make upgrades in tandem with general software upgrades installed during the regular course of business. This approach will significantly reduce the costs to small entities as well as to other EAS Participants, which fosters greater support for the MEP alerts and ensures that a more alerts about missing and endangered person alerts are transmitted by EAS Participants over time. As noted above, the Order permits transmission of MEP Alerts over WEA using an existing WEA message classification.

**F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

57. The RFA requires an agency to provide “a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”<sup>189</sup>

58. As mentioned above, the *Order* adopts “MEP” as a new EAS event code for Ashanti Alerts, and requires implementation by small and other participating EAS Participants and CMRS Providers on a voluntary basis through equipment already in place, which will require a software upgrade. Among the alternatives presented in the *MEP NPRM* was whether there are existing EAS event codes that could effectively transmit Ashanti Alerts. The Commission determined that existing EAS event codes are either unavailable for missing and endangered adults or do not effectively identify Ashanti Alerts to the public. We also considered a Tribal-specific Missing Indigenous Person (MIP) event code, however we did not adopt this alternative because there is greater support for the MEP EAS code. In considering ways to minimize costs to EAS Participants associated with implementing the codes, the Commission anticipates compliance costs will be limited to the cost of labor for downloading software updates, which may be completed during the regular course of business.

---

<sup>188</sup> *Order* at para. 49

<sup>189</sup> 5 U.S.C. § 604(a)(6).

**G. Report to Congress**

59. The Commission will send a copy of the *Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>190</sup> In addition, the Commission will send a copy of the *Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order*, and FRFA (or summaries thereof) will also be published in the *Federal Register*.<sup>191</sup>

---

<sup>190</sup> *See Id.* § 801(a)(1)(A).

<sup>191</sup> *See Id.* § 604(b).

## APPENDIX C

*MEP NPRM Commenters*

<b>Commenter</b>	<b>Abbreviation</b>
ACA Connects—America’s Communication Association	ACA Connects
Alliance for Telecommunications Industry Solutions	ATIS
Association of Public-Safety Communications Officials, International	APCO
Andrew Bagdonas	
Chris Bedeau	
Brian Brashier	
CTIA—The Wireless Association	CTIA
Richard Alun Davis	
Kyler Edsitty	
Federal Emergency Management Association	FEMA
Inter-Tribal Council of the Five Civilized Tribes	
Alfred S. Kenyon, III	
Lighthorse Police Department	
National Congress of American Indians	NCAI
National Tribal Telecommunications Association	NTTA
Native Public Media	NPM
Navajo Nation	
NCTA—The Internet & Television Association	NCTA
Nevada Coalition to END Domestic and Sexual Violence	NCEDSV
NTCA—The Rural Broadband Association	NTCA
Planned Parenthood Votes Nevada	
Nathan Pryor	
Seattle Indian Health Board	SIHB
Thomas Neve	
Southern Ute Indian Tribe	
Tribal Consultation – Cherokee, North Carolina	
Tribal Consultation – Phoenix, Arizona	
Tribal Consultation – Rancho Cordova, California	
Tribal Consultation – Virtual	
Tribal Consultation – Wyandotte, Oklahoma	
Urban Indian Health Institute	UIHI
Brian Wadsworth	