

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add 165.T13-214 to read as follows:

§ 165.T13-214 Safety Zone; Coast Guard Exercise, Hood Canal, Washington

(a) *Location.* The following area is a safety zone: All waters encompassed within 500 yards of any vessel that is involved in the Coast Guard Ready for Operations exercise while such vessel is transiting Hood Canal, WA between Foul Weather Bluff and the entrance to Dabob Bay. Vessels involved will be various sizes and can be identified as those flying the Coast Guard Ensign.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person may enter or remain in the safety zone created in this rule unless authorized by the Captain of the Port or his Designated Representative. See 33 CFR Part 165, Subpart C, for additional information and requirements. Vessel operators wishing to enter the zone during the enforcement period must request permission for entry by contacting the on-scene patrol commander on VHF channel 13 or 16, or the Sector Puget Sound Joint Harbor Operations Center at (206) 217-6001.

(c) *Enforcement Period.* This rule will be enforced on 4:00 a.m. May 8, 2012 until 11:59 p.m. on May 10, 2012 unless canceled sooner by the Captain of the Port.

Dated: April 6, 2012.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2012-10885 Filed 5-4-12; 8:45 am]

BILLING CODE 9110-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04-296; FCC 12-41]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) amends its rules governing the Emergency Alert System (EAS) rules so that EAS Participants may, but are not required to, employ the text-to-speech (TTS) functions described in the EAS-CAP Industry Group (ECIG) Implementation Guide.

DATES: Effective May 7, 2012.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418-7452, or by email at Lisa.Fowlkes@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration* in EB Docket No. 04-296, FCC 12-41, adopted and released on April 19, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov.

Introduction

1. On January 10, 2012, the Commission released its *Fifth Report and Order* in the above-referenced docket, in which it adopted rules specifying the manner in which EAS Participants must be able to receive alert messages formatted in the Common Alerting Protocol (CAP), and streamlined its part 11 rules to enhance their effectiveness and clarity. In this *Order on Reconsideration*, the Commission reconsiders one aspect of the *Fifth Report and Order*: the applicability of TTS specifications set

forth in the ECIG Implementation Guide recommendations. As discussed below, the Commission is deferring action on, rather than prohibiting, the use of the ECIG Implementation Guide's TTS specifications. Accordingly, the Commission amends its EAS rules so that EAS Participants may, but are not required to, employ the TTS functions described in the ECIG Implementation Guide.

Background

2. In the *Fifth Report and Order*, the Commission limited the scope of the new Part 11 EAS CAP-related obligations to those necessary to ensure that CAP-formatted alert messages distributed to EAS Participants will be converted into and processed in the same way as messages formatted in the current EAS Protocol. In that regard, the Commission required EAS Participants to be able to convert CAP-formatted EAS messages into messages that comply with the EAS Protocol requirements, following the procedures for such conversion as set forth in the ECIG Implementation Guide.

3. Notwithstanding that the Commission mandated compliance with most of the ECIG Implementation Guide, it declined at that time to impose such a mandatory approach with respect to the ECIG Implementation Guide's provisions regarding TTS. The Commission noted, for example, that the accuracy and reliability of TTS had not been established in the record. The Commission also recognized that a regime that addressed lack of audio by focusing on the EAS Participant end—where the EAS Participants would effectuate the TTS conversion by using any of the available TTS software packages that may be configured into their EAS equipment—might be less desirable than an approach that required the message originator to make the conversion with TTS software on the originating end. Because of the need for multiple conversions using a variety of software, the former approach would be more prone to the generation of differing, and thus confusing, audio messages to be broadcast for the same EAS message. The latter approach would tend to avoid this risk by applying the conversion before the alert is widely distributed throughout the community of EAS Participants. The Commission further observed that it may consider the TTS issue in an upcoming proceeding. Accordingly, the Commission stated that it “continue[s] to believe that discussion of text-to-speech and speech-to-text software is best reserved for a separate proceeding,

and [that] we therefore defer these issues at this time.”

In order to avoid imposing the Guide's mandatory approach toward TTS conversions—which would have required EAS Participants to effectuate such conversions using EAS Participant-provided technologies if their EAS devices could support them—the Commission revised § 11.56 of its rules to preclude application of the Guide's mandatory requirement outright.

4. The Commission also stated in the *Fifth Report and Order* that “we do not permit the construction of EAS audio from a CAP text message at this time,” and noted that “we will not allow EAS Participants to use text-to-speech software configured in their EAS equipment to generate the audio portion of an EAS message.”

5. On March 12, 2012, the Federal Emergency Management Agency (FEMA) made a filing, titled a “Petition for Reconsideration” (FEMA Request), requesting reversal of the Commission's decision in the *Fifth Report and Order* “to deviate from the [ECIG] Implementation Guide in the matter of text-to-speech conversion.” In its request, FEMA stated that the Commission, by prohibiting use of the ECIG Implementation Guide TTS specifications “discourages and * * * limits further development of text-to-speech technology in support of EAS.” FEMA also noted that an “unintended consequence of disallowing [TTS] conversion by CAP EAS devices is that CAP messages supplied without audio content * * * may cause a CAP-EAS device to interrupt the programming of EAS participants” and only convey limited information. According to FEMA, the lack of TTS conversion capability could possibly disrupt dissemination of National Weather Service alerts, delay retrieval of referenced audio files in alerts, and impact the ability of jurisdictions with limited resources, or those with certain, already implemented CAP alerting capabilities, to issue CAP-formatted alerts. FEMA requested that the Commission delete the reference to “using text-to-speech technology” from the revised § 11.56(a)(2). The recent Final Report of Working Group 9 of the Commission's third Communications Security, Reliability and Interoperability Council (CSRIC) reiterated these same concerns. The Commission also received filings from state and local emergency management agencies and others requesting a similar change to this rule.

Discussion

6. Upon review of the *Fifth Report and Order*, and based on the

observations and arguments made in various filings since release of that decision, the Commission concludes that an absolute bar against using the specifications set out in the ECIG Implementation Guide could have unintended negative consequences, such as compromising the ability of EAS Participants to receive EAS messages from states and local governments that have implemented CAP-based alerting systems that rely on TTS technologies. Moreover, such a bar would depart from the Commission's original intention to maintain a more neutral stance on the best approach for establishing TTS requirements pending fuller consideration of the issues involved. And the Commission is convinced that the merits of mandating TTS use have yet to be fully developed in the record.

7. Accordingly, pursuant to § 1.108 of its rules, on its own motion the Commission reconsiders and revises § 11.56(a)(2) of its rules to replace the parenthetical phrase “except that any and all specifications set forth therein related to using text-to-speech technology and gubernatorial ‘must carry’ shall not be followed” with the phrase “except that any and all specifications set forth therein related to gubernatorial ‘must carry’ shall not be followed, and that EAS Participants may adhere to the specifications related to text-to-speech on a voluntary basis.” The Commission also revises footnote 118 of the *Fifth Report and Order* to delete the phrase “While we do not permit the construction of EAS audio from a CAP text message at this time * * *” and revises footnote 496 of the *Fifth Report and Order* to delete the phrase “* * * we will not allow EAS Participants to use text-to-speech software configured in their EAS equipment to generate the audio portion of an EAS message * * *” With these revisions, the Commission hereby defers consideration of the ECIG Implementation Guide's adoption of TTS software configured in EAS equipment to generate the audio portion of an EAS message, and thus neither requires nor prohibits EAS Participants from following the ECIG Implementation Guide's specifications on use of TTS.

I. Procedural Matters

A. Accessible Formats

8. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

B. Paperwork Reduction Act Analysis

9. This document contains no modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

C. Congressional Review Act

10. The Commission will send a copy of this *Order on Reconsideration* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (“CRA”), see 5 U.S.C. 801(a)(1)(A).

D. Effective Date of Rule

11. The Commission makes this rule revision effective immediately upon publication in the **Federal Register**, pursuant to Section 553(d) of the Administrative Procedure Act. In this case, where the Commission’s action removes a restriction that would have applied to EAS Participants and retains the status quo, it finds that there is no need for the 30-day period. In addition, the Commission concludes that good cause exists to make the rule effective immediately upon **Federal Register** publication. In making the good cause determination, agencies must balance the necessity for immediate implementation against principles of fundamental fairness that require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. No party will be prejudiced by an expedited effective date for this rule revision. This revision simply now provides them with the option to follow the ECIG Implementation Guide’s TTS provisions should they choose to do so. However, the expedited date is necessary to provide the parties with regulatory certainty sufficiently in advance of the current June 30, 2012, deadline for complying with the relevant requirements of the Commission’s *Fifth Report and Order*. There is also no information collection associated with this rule revision, so no OMB approval is required for the revised rule.

II. Final Regulatory Flexibility Analysis

12. The Regulatory Flexibility Act (RFA) requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.” In this *Order on Reconsideration*, the Commission removes the prohibition on following the ECIG Implementation Guide’s specifications related to using TTS technology, and clarifies that EAS Participants may, but are not required,

to use these specifications. The Commission hereby certifies that this rule revision will not have a significant economic impact on a substantial number of small entities, because this action merely provides EAS Participants with the option to use these specifications. EAS Participants may continue to opt not to use these specifications and thereby maintain the status quo. The Commission will send a copy of this *Order on Reconsideration*, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Commission will publish this *Order on Reconsideration* (or a summary thereof) and certification in the **Federal Register**.

III. Ordering Clauses

13. Accordingly, *it is ordered* that, pursuant to § 1.108 of the Commission’s rules, 47 CFR 1.108, this Order on Reconsideration *is adopted*;

14. *It is further ordered* that part 11 of the Commission’s Rules, 47 CFR part 11, *is amended* as set forth in the Appendix. This Order shall become effective immediately upon publication in the **Federal Register**;

15. *It is further ordered* that the Petition for Reconsideration filed of the Federal Emergency Management Agency on March 12, 2012, in EB Docket 04–296 is dismissed as moot;

16. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 11

Radio, Television.
Federal Communications Commission.
Marlene H. Dortch,
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 1. The authority citation for part 11 continues to read as follows:

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

■ 2. Amend § 11.56 by revising paragraph (a)(2) to read as follows:

§ 11.56 Obligation to process CAP-formatted EAS messages.

(a) * * *
(2) Converting EAS alert messages that have been formatted pursuant to the Organization for the Advancement of Structured Information Standards (OASIS) Common Alerting Protocol Version 1.2 (July 1, 2010), and Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), into EAS alert messages that comply with the EAS Protocol, such that the Preamble and EAS Header Codes, audio Attention Signal, audio message, and Preamble and EAS End of Message (EOM) Codes of such messages are rendered equivalent to the EAS Protocol (set forth in § 11.31), in accordance with the technical specifications governing such conversion process set forth in the EAS–CAP Industry Group’s (ECIG) Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010) (except that any and all specifications set forth therein related to gubernatorial “must carry” shall not be followed, and that EAS Participants may adhere to the specifications related to text-to-speech on a voluntary basis).

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Parts 228 and 231**

[Docket No. FRA–2004–17529; Notice No. 9]

RIN 2130–AB94

Inflation Adjustment of the Aggravated Maximum Civil Monetary Penalty for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation or Order; Correction

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; correcting amendments.

SUMMARY: On April 24, 2012, FRA published a final rule, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, which increased the aggravated maximum civil monetary penalty that the agency will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority. See 77 FR 24416. In preparing that final