



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

Framing Paper

FCC Tribal Consultation: Proposed Missing Endangered Person Emergency Alert System Event Code

Topic: FCC Seeks Comment on Adding a Missing and Endangered Persons Event Code to the Emergency Alert System

Summary:

On March 15, 2024, the Federal Communications Commission (Commission) released a <https://docs.fcc.gov/public/attachments/FCC-24-30A1.pdf> (NPRM) seeking comment on its proposal to adopt a new Emergency Alert System (EAS) event code for Missing and Endangered Persons (MEP). The FCC proposes adopting the new MEP event code to facilitate the rapid and coordinated delivery of alert notifications about missing and endangered persons to the public in a uniform, consistent and timely manner.

The Commission directed its Office of Native Affairs and Policy (ONAP) to coordinate government-to-government consultation with Tribal Nations about the topics raised in the NPRM.

In a Public Notice (DA 24-379) released April 23, 2024, the Commission announced that it would convene its first in-person Tribal consultation for the MEP event code NPRM on May 14, 2024, in Wyandotte, Oklahoma. The Public Notice also announced the Commission's intent to host future in-person Tribal consultations on the MEP event code NPRM, including a virtual national Tribal consultation. Information about the schedule for Tribal consultations will be on ONAP's webpage as information becomes available: <https://www.fcc.gov/office-native-affairs-and-policy>.

Background:

The EAS and Wireless Emergency Alert (WEA) systems provide members of the public with notice of emergencies including severe weather events, natural disasters, civil emergencies and law enforcement warnings. The EAS is a national public warning system through which TV and radio broadcasters, cable systems, and other service providers ("EAS Participants") deliver alerts to the public to warn them of impending emergencies and dangers to life and property. EAS alerts utilize fixed codes to identify the various elements of an alert so that each can deliver accurate, secure, and geographically-targeted alerts to the public. The EAS protocol utilizes a three-character "event code" to describe the nature of the alert.

The FCC seeks to advance the important public policy objective of encouraging states, territories, and Tribal communities 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. 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.

Although voluntary, Ashanti Alerts, once implemented, can provide for rapid 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. Creating an MEP event code will facilitate uniformity in the alert process to help locate missing individuals.

While a widespread concern, the issue of missing and endangered persons is particularly prevalent in Tribal communities, where American Indian and Alaska Native people are at a disproportionate risk of experiencing violence, murder, or vanishing. But information from the National Crime Information Center indicates that a significant number of the persons entered into its missing persons database fall outside of the age criteria for AMBER and Silver Alerts.

NPRM Questions:

As a starting point for this consultation, please consider the following issues and questions, as presented in the NPRM:

General

The Commission is seeking comment on three criteria for when the new event code could be used:

- (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.

Excerpt from Para. 19

Currently, EAS alerts are limited to the geographic contours and service areas of broadcasters and cable service providers.

- Are there any geographic or service area limitations that would pose challenges to the effectiveness of missing and endangered person alerts, including Ashanti Alerts, which – per the Ashanti Alert Act– must be delivered to “geographic areas that the missing adult could *reasonably* reach, considering the circumstances and physical and mental condition of the missing adult, the modes of transportation available to the missing adult, and the circumstances of the disappearance”?
- How should the term “reasonably” be construed in this context and how does such construction impact EAS Participants’ ability to disseminate these alerts?
- Are there differences between EAS Participants (e.g., small versus large cable operators) that affect the ability to target geographic areas as prescribed for the alerts?

Excerpt from Para. 21

We are aware that several states, territories, and Tribal communities have Ashanti Alert plans, Ashanti Alert Act compliant plans, missing and endangered person plans, or have legislative proposals for such plans. We observe that implementation of these plans vary.

- We seek comment on how many states, territories, and Tribal communities, in fact, have

such plans or proposals.

Excerpt from Para. 22

We additionally ask whether the availability of a dedicated EAS event code would promote the adoption or enhancement of Ashanti Alerts or missing and endangered person alerts throughout the nation.

- Would a dedicated EAS event code help integrate existing plans into a coordinated national network?
- Would the ability of law enforcement agencies to use existing EAS distribution networks alleviate any burden associated with designing and implementing individual missing and endangered person or Ashanti Alert plans?
- Would the implementation of a dedicated EAS event code encourage States and Tribal communities that do not have missing and endangered person or Ashanti Alert plans to adopt one?

Excerpt from Para. 24

We seek comment on whether we should consider an additional dedicated EAS event code for missing Indigenous persons on and off Tribal land. As we have recognized above, Tribal 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....”

- Would establishing a dedicated event code for missing Indigenous persons aid in resolving this disparity?
- Would such a dedicated event code help law enforcement in locating missing Indigenous persons?
- Alternatively, would it be more effective to use our proposed MEP code, rather than using a separate dedicated event code?

Other questions, including:

- Whether establishing a dedicated MEP event code would aid in the development of the national communications network contemplated by the Ashanti Alert Act.
- Whether there are any particular privacy or other civil liberties concerns the Commission should consider in implementing the proposed MEP event code.
- What actions states, territories, and Tribal communities have taken to educate the public on missing endangered persons and Ashanti Alerts and the appropriate responses to those alerts.
- What effect the adoption of the MEP event code for EAS would have on WEA.
- The timeframe for implementing MEP as a dedicated EAS event code for missing endangered person alerts, including Ashanti Alerts.

How to Register for an Upcoming Tribal Consultation:

To register to participate in a Tribal consultation please email Tribal.Events@fcc.gov with the date and location of the consultation which you wish to attend in the subject line, and include your name, title, and tribal affiliation in your email.

Ex Parte Requirement and Tribal Nations:

As noted in the NPRM, Tribal Nations are encouraged to file comments, reply comments, and *ex parte* presentations in the record to put facts and arguments before the Commission so that they can be relied upon in the decision-making process consistent with the requirements of the Administrative Procedure Act.

However, at the option of the Tribe, *ex parte* presentations made during consultations by elected and appointed leaders and duly appointed representatives of federally recognized Indian Tribes and Alaska Native Villages will be exempt from the Commission's rules requiring disclosure in permit-but-disclose proceedings, and exempt from the prohibitions during the Sunshine Agenda period.

Directions for Submitting Public Comments:

The Commission released a Public Notice (DA 24-372) on April 22, 2024, announcing the deadlines for submitting public comments to the record by May 20, 2024, 11:59 p.m. EDT, and reply comments by June 17, 2024, 11:59 p.m. EDT. Comments may be filed in the FCC's Electronic Comment Filing System (ECFS) at <https://www.fcc.gov/ecfs/filings/standard>, using the following docket numbers: 15-91, 15-94, or email native@fcc.gov.

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 or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

For further information about the NPRM, contact Theodore Marcus of the Consumer and Governmental Affairs Bureau, at Theodore.Marcus@fcc.gov or (202) 418-2610; Dana Bowers of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at Dana.Bowers@fcc.gov or (202) 418-2809.