



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted Electronically

May 20, 2024

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L St. NE
Washington, DC 20554

Re: In the Matter of Wireless Emergency Alerts, PS Docket No. 15-91; and Amendments to Part 11 of the Commission's Rule Regarding the Emergency Alert System, PS Docket No. 15-94

Dear Secretary Dortch,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) to revise the Emergency Alert System (EAS) rules to adopt a new EAS event code for Missing and Endangered Persons (MEP). The EAS is a national public warning system broadcast over television, radio, cable systems, cellular mobile systems, and other wireless telecommunications services. The FCC's proposal to adopt the new EAS event code for MEP would allow for the coordination of and uniformity in the transmission of "Ashanti Alerts", which are associated with persons over 17 years of age that are reported missing or abducted from Tribal, state, and territorial communities. The FCC has acknowledged the widespread issue of missing and endangered persons in Tribal communities and that American Indian and Alaska Native people are at a disproportionate risk of experiencing violence, murder, or vanishing. Further, the FCC determined that in 2022 there were approximately 187,000 adults that went missing that fell outside of the criteria for issuance of an AMBER Alert notification. Indian Country has long advocated for policies that improve public safety on Tribal Lands and for our citizens and USET SPF supports the adoption of a MEP event code to be added to the EAS to increase interagency coordination between Tribal and non-Tribal public safety agencies.

USET SPF is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), , Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is Strength in Unity

Chronically Unmet Trust and Treaty Obligations Contribute to Public Safety Concerns on Tribal Lands

The federal government's trust and treaty obligations are the result of the millions of acres of land and extensive resources ceded to the U.S.—oftentimes by force—in exchange for which it is legally and morally obligated to provide benefits and services in perpetuity, including those related to public safety in Indian Country. At no point has the government fully delivered upon these obligations. This is especially true in the law enforcement context, where the United States has failed to fully recognize our inherent sovereignty and at the same time, has not invested in the infrastructure necessary to fulfill this obligation. The federal government has long failed to allocate the resources necessary to fill the void left by its refusal to recognize Tribal Nations' criminal jurisdiction over our land. Each time a crime takes place, the legal jurisprudence created by the United States requires a time consuming and complicated analysis necessary to determine who has jurisdiction. This determination requires an analysis of the perpetrator, the victim, the land on which the crime took place, the type of crime, and whether any statute applies that shifts the jurisdictional analysis, such as a restrictive settlement act. This murkiness leads to lost time—which can be deadly when a Native person is in danger.

Additionally, the chronic federal underfunding of Tribal public safety programs leaves many Tribal Nations without the personnel and other infrastructure necessary to combat crime in Indian Country. For example, Indian Country's police staffing does not meet the national police coverage standards. In FY 2020, Indian Country only had 1.9 officers per 1,000 residents compared to an average of 3.5 officers per 1,000 residents nationwide. Again, cooperation across governmental entities, including with Tribal Nations, can help resolve police staffing issues. Therefore, USET SPF fully supports the adoption of a MEP event code in the EAS to coordinate Tribal and non-Tribal public safety agency response to a MEP alert. Adoption of the MEP event code would also inform the general public of missing and endangered persons events and empower communities to take appropriate action to aid public safety officials in efforts to address these emergencies. It is imperative that all efforts to expand public alert warning systems to aid in the recovery of missing and endangered persons must be pursued and adopted by the federal government's public safety agencies. In addition, federal agencies, such as the FCC, Department of the Interior, Department of Justice, and the Federal Emergency Management Agency, have an obligation to work with Tribal and non-Tribal local public safety agencies to ensure that MEP events are appropriately broadcast and support the efforts of public safety agencies to recover missing and endangered persons.

Transmission of a MEP Event Code Should be Broadcast Over All Alert Systems

Among the questions posed by the FCC's NPRM, include whether MEP event codes should be transmitted with data-rich content over the Federal Emergency Management Agency (FEMA) administered Integrated Public Alert and Warning System (IPAWS). To fully support the transmission of MEP emergencies, USET SPF 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 distributing emergency alerts using the Common Alerting Protocol (CAP) for transmission under IPAWS. While the IP-based CAP transmission of alerts can support extra text files, or other data-rich content, we believe that continued reliance on the EAS "daisy chain" distribution architecture will ensure that MEP alerts are transmitted widely and broadly on EAS capable devices. Further, the FCC questions whether the Wireless Emergency Alert (WEA) system should develop a MEP event code for use on the WEA since it does not use event codes in the same manner as the EAS. Since the WEA system is a tool for authorized federal, state, local, and Tribal governments to geographically target alerts and warnings to WEA-capable mobile devices of participating commercial mobile service providers' subscribers, we strongly recommend that a MEP code be developed for transmission on the WEA system as well. Further, we believe that the adoption of MEP as a dedicated EAS

event code would encourage EAS Participants to deliver missing and endangered persons and Ashanti Alert plans across the nation, thereby facilitating the work of the National Ashanti Alert Network. However, since the FCC has determined that not all AMBER Alert or Silver Alert events always meet the criteria of a MEP event, we firmly believe that development of a MEP code would assist in the transmission of Ashanti Alerts for individuals over the age of 17, missing adults who have special needs or circumstances, and missing adults who are endangered or who have been abducted or kidnapped. Additionally, since the transmission of EAS alerts issued by state and local governments is voluntary, the FCC, FEMA, and other relevant federal agencies must educate EAS Participants on the importance of transmitting a MEP alert on their networks. We also urge federal agencies to offer the appropriate training, funding, and technical assistance to support EAS Participants and systems, especially in collaborating with federal and Tribal law enforcement agencies.

Conclusion

Establishing a dedicated EAS event code would support the nationwide adoption and expansion of Ashanti Alerts, while also ensuring that missing and endangered persons that don't meet the criteria of AMBER Alerts or Silver Alerts are appropriately transmitted to the public. Adoption of a MEP event code would also inform the general public of missing and endangered persons events and empower communities to take appropriate action to aid public safety officials in efforts to address these emergencies. USET SPF firmly 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. While we do not believe that an additional EAS event code needs to be developed for missing or endangered persons on or off Tribal Lands, USET SPF recommends that adoption of a 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. We strongly encourage and recommend the FCC, along with its federal partners such as the Department of the Interior, Department of Justice, and the Federal Emergency Management Agency, coordinate its efforts to adopt an MEP event code in public alert warning systems nationwide. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 615-838-5906.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director