

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

In the Matter of)	
)	
South Arundel Citizens for Responsible)	
Development)	
Licensee of Station WRYR-LP)	
Sherwood, Maryland)	File No. EB-03-HS-020
)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: November 25, 2003

Released: November 25, 2003

By the Director, Office of Homeland Security, Enforcement Bureau:

I. INTRODUCTION

1. On October 6, 2003, the South Arundel Citizens for Responsible Development (South Arundel), on behalf of WRYR-LP, a low power FM station in Sherwood, Maryland, filed a request for a 24-month waiver of the Emergency Alert System (EAS) requirements as set forth in section 11.11 of the rules of the Federal Communications Commission (Commission).¹ For the reasons indicated below, we grant South Arundel a six month extension of the EAS rules.

2. Section 11.11(a) requires Low Power FM (LPFM) stations to install a Commission-certified EAS decoder or decoder/encoder by October 24, 2003.² In 2002, the Commission granted LPFM stations a temporary blanket waiver of the requirement in the EAS rules that LPFM stations install FCC-certified decoders, because at that time, there were no FCC-certified EAS decoders on the market.³ The Commission also amended the EAS rules to exempt LPFM stations from installing FCC-certified decoders until one year after the Commission published a Public Notice in the Federal Register indicating that at least one decoder has been certified.⁴ On September 19, 2002, the Commission released a Public Notice indicating that there was one manufacturer that offered an FCC-certified decoder.⁵ Thus, LPFM stations were required to be EAS compliant by October 24, 2003.

¹ 47 C.F.R. § 11.11.

² *Id.*, n. 2.

³ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order, EB Docket No. 01-66, 17 FCC Rcd 4055 (2002).

⁴ *Id.* at 4084.

⁵ *See Notice Regarding Certification of EAS Decoder*, DA-02-2312, Public Notice, 67 Fed. Reg. 65321 (Oct. 24, 2002).

3. The Commission has stated that it would grant case-by-case waivers of the EAS rules to LPFM stations that made a showing of financial hardship. The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁶

III. DISCUSSION

4. South Arundel filed a request for a temporary, 24-month waiver of section 11.11(a) for Station WRYR-LP on October 6, 2003. In support of its waiver request, South Arundel states that WRYR-LP is a community non-profit radio station with no advertising or other income sources and that it is operated by volunteers and funded by donations from the community. According to South Arundel, the one available EAS decoder for LPFM stations would cost \$1,800. South Arundel asserts that this cost would impose a financial hardship on the station and provides financial statements in support of this assertion. South Arundel does not mention any other stations in the WRYR-LP coverage area that have installed EAS equipment or expect to do so, but does note that WRYR-LP has been able to report emergency events as part of its day-to-day live programming (specifically, Hurricane Isabel), and would continue to do so.

5. Given WRYR-LP's modest budget and all volunteer work force, we believe that it would impose an unnecessary financial burden to require WRYR-LP immediately to install an EAS decoder. However, WRYR-LP has been on notice for over a year that it is obligated to install an EAS decoder, and, as indicated in its 2003 financial statements, has been able to budget \$12,200.00 for equipment during this time. As a result, we believe that the financial hardship that would result from requiring WRYR-LP to install an \$1,800.00 EAS decoder is not of sufficient magnitude to justify a 24-month extension. South Arundel has not shown that any other station within its coverage area has EAS capability, and its efforts to supply emergency information to its listeners, while laudable, are not a sufficient substitute for complying with the EAS requirements. Under these circumstances, we believe that six months is sufficient time for WRYR-LP to install an EAS decoder, and accordingly grant WRYR-LP an additional six months from the date of the initial October 24, 2003 deadline to comply with the Commission's EAS rules.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Commission's rules,⁷ that the request of South Arundel Citizens for Responsible Development for a waiver of section 11.11(a) of the rules station WRYR-LP, is **GRANTED**, consistent with the discussion and conclusions in this *Order*.

⁶ *Creation of Low Power Radio Service*, Report and Order, MM Docket 99-25, 15 FCC Rcd 2205 (2000).

⁷ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

7. **IT IS FURTHER ORDERED** that WRYR-LP, place a copy of this waiver in its station files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to Chris E. Pokorski, Station Manager, WRYR-LP, and P.O. Box 205, Churchton, Maryland 20733.

FEDERAL COMMUNICATIONS COMMISSION

James A. Dailey
Director
Office of Homeland Security
Enforcement Bureau