

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

In the Matter of)
Improving Wireless Emergency Alerts and) PS Docket No. 15-91
Community-Initiated Alerting)
Amendments to Part 11 of the Commission's Rules) PS Docket No. 15-94
Regarding the Emergency Alert System)

ORDER

Adopted: October 16, 2019

Released: October 16, 2019

By the Deputy Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, the Public Safety and Homeland Security Bureau (Bureau) of the Federal Communications Commission (Commission) grants a limited waiver of the Commission's Wireless Emergency Alerts (WEA) rules to permit Participating Commercial Mobile Service (CMS) Providers to participate in an end-to-end WEA test that the City of Los Angeles, California, Emergency Management Department (LA Emergency Management Department), proposes to conduct on November 16, 2019 at 10:00 a.m. Pacific Daylight Time (PDT), within the City of Los Angeles. For the reasons discussed below we grant the LA Emergency Management Department request, subject to certain conditions.

II. BACKGROUND

2. The WEA system allows authorized government entities to send geographically targeted emergency alerts to commercial wireless subscribers who have WEA-capable mobile devices, and whose commercial wireless service providers are Participating CMS Providers. The Commission's rules prohibit use of the WEA Attention Signal except during actual emergencies, authorized tests, and certain public service announcements. Additionally, the Commission's rules allow testing of WEA functionality

1 Participating CMS Providers are commercial mobile service providers that have elected voluntarily to transmit WEA alert messages. 47 CFR § 10.10(d), (f).

2 See Letter from Aram Sahakian General Manager, Emergency Management Department, City of Los Angeles, to Michael Wilhelm, Federal Communications Commission, Public Safety and Homeland Security Bureau, Policy and Licensing Division (filed Oct. 10, 2019) (on file in PS Docket No. 15-91). Because this WEA test is being conducted in support of a larger exercise, the LA Emergency Management Department did not propose a back-up test date. Id. at 1. Moreover, this test will not be a substitute for any required weekly test. Id.

3 Commercial Mobile Alert System, PS Docket No. 07-287, Third Report and Order, 23 FCC Rcd 12561, 12575, para. 32 (2008) (stating the requirements for wireless providers volunteering to participate in WEA).

4 47 CFR § 10.520(d). The Attention Signal is a loud, attention-grabbing, two-tone audio signal that uses frequencies and sounds identical to the attention signal used by the Emergency Alert System. Compare 47 CFR § 10.520 with 47 CFR § 11.31(a)(2).

only in limited circumstances that currently do not include end-to-end WEA tests to the public.⁵ On November 1, 2016 the Commission adopted a Report and Order that amends the WEA testing rules to permit emergency managers to conduct end-to-end WEA tests to the public, without obtaining a waiver, to assess how WEA works within their jurisdictions.⁶ The rules allowing such State/Local WEA Tests became effective on May 1, 2019⁷ but the Department of Homeland Security's Federal Emergency Management Agency (FEMA), which administers the Integrated Public Alert and Warning System (IPAWS) infrastructure through which all alerts are authenticated, validated, and delivered to Participating CMS Providers, has informed the Bureau that IPAWS will not be ready to support additional features, including State/Local WEA tests, pending further necessary technical changes to IPAWS.⁸ Accordingly, alert originators wishing to conduct end-to-end WEA tests prior to IPAWS's readiness to support State/Local WEA Tests must continue to request a waiver to use existing WEA message classifications to permit the alerts to be transmitted to the public.

3. According to the LA Emergency Management Department, the proposed test will be conducted in support of the City of Los Angeles Fire Department's wildfire evacuation exercise and will serve two purposes: (1) assess the LA Emergency Management Department's ability to successfully execute the WEA process, and (2) promote wildfire and evacuation preparedness for high-risk communities. The LA Emergency Management Department letter states that Los Angeles is threatened by increasingly intense and persistent wildfires, particularly in the Wildland Urban Interface areas.⁹ According to the letter, this WEA test target area is not only at the highest risk of wildfire but also is an area in which both delivery of emergency messages and evacuation of residents is difficult.¹⁰ The Emergency Management Department also notes in the letter that high fire danger weather "Red Flag" warnings issued by the National Weather Service and fire meteorologists of the Los Angeles Fire Department are becoming more frequent and lengthy. Red Flag conditions cause electric utilities to preemptively turn off power in high-risk areas during high-risk weather conditions.

4. The proposed WEA test will be conducted within Los Angeles.¹¹ The proposed WEA test message to be delivered to mobile devices is: TEST: City of LA emergency alert system test. Info and survey at <https://arcg.is/1OTXWv>.¹²

⁵ 47 CFR § 10.350. Specifically, the Commission's rules require Participating CMS Providers to participate in monthly tests initiated by the Federal Emergency Management Agency (FEMA) and in periodic tests of WEA's C-Interface. *Id.*

⁶ *Wireless Emergency Alerts; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 11112, 11154-11157, paras. 65-68 (2016).

⁷ *Id.* at 11161, 11165, paras. 79, 85 (stating that the deadline for state and local testing is 30 months after the rule's publication in the Federal Register); *Federal Communications Commission, Wireless Emergency Alerts, Amendments to Rules Regarding the Emergency Alert System*, 81 Fed. Reg. 75710 (Nov. 1, 2016) (establishing the date of Federal Register publication).

⁸ *See Public Safety & Homeland Security Bureau Announces Delay in Availability of Certain Improvements to Wireless Emergency Alerts*, Public Notice, DA 19-534 (PSHSB June 7, 2019); *Advisory Regarding May 1 Deadline for Improvements to Wireless Emergency Alerts and Guidance for State/Local Alert Originators*, Public Notice, DA 19-358, at 2 (PSHSB Apr. 30, 2019).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 1.

¹² *Id.* at 2. The test message is within the 90-character limits of our rules. *See* 47 CFR § 10.430.

5. The LA Emergency Management Department letter outlines an extensive media campaign for the city and surrounding jurisdictions.¹³ This effort will include the Los Angeles Fire Department engaging the public in the target areas through Neighborhood Councils and City Council Members.¹⁴ The department will also conduct two town hall meetings to educate the public on emergency preparedness, IPAWS, WEA, and details of the exercise.¹⁵ Both the LA Emergency Management Department and the Los Angeles Fire Department will use social media to inform the City's 911 and 311 services of the exercise details.¹⁶ The LA Emergency Management Department notes that it will inform the Los Angeles County Operational Area, adjacent jurisdictions, and law enforcement and transportation officials (California Highway Patrol, CalTrans, etc.) of the exercise details.¹⁷ The LA Emergency Management Department also represents it will coordinate with test area CMS Providers before the test.¹⁸

III. DISCUSSION

6. A provision of the Commission's rules "may be waived by the Commission on its own motion or on petition if good cause therefor is shown."¹⁹ The Commission may find good cause to extend a waiver, "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."²⁰ We conclude that there is good cause to grant the LA Emergency Management Department's waiver request for the WEA end-to-end test.

7. Because of the elevated threat of wildfires in Los Angeles, we are persuaded by the statements in the LA Emergency Management Department letter that the proposed test will help to educate the public about WEA and wildfire preparedness and improve the proficiency of local emergency management officials in sending WEA messages to the public.²¹ We also find persuasive the fact that the WEA test will accompany other wildfire preparedness and safety outreach efforts.²² Accordingly, rather than wait until IPAWS is ready to support State/Local WEA Tests, we believe the public interest will be served by authorizing the test now and, therefore, grant a limited waiver of the Commission's WEA rules to conduct the test in the targeted area of Los Angeles.²³

8. To ensure that the public is not misled into believing that the test is an actual warning, we condition this waiver on the full implementation of the multimedia campaign and outreach plan described in the LA Emergency Management Department letter, including outreach to the public, press, and relevant government agencies, and to inform the public that multiple test messages may be sent.

¹³ LA Emergency Management Department Letter at 2.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 47 CFR § 1.3.

²⁰ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972)).

²¹ LA Emergency Management Department Letter at 1.

²² *Id.*

²³ This waiver does not extend to any other circumstances involving the broadcast or transmission of the WEA Attention Signal.

9. The test may only be conducted on November 16, 2019, at 10:00 a.m. PDT, as referenced in the LA Emergency Management Department letter, and must be limited to the purposes of the test and be consistent with the representations made in the letter, specifically:

- (1) the test is necessary to assess and thereby ensure that emergency management officials in Los Angeles have a clear understanding of how alerts would perform in their city, and the public becomes familiar with the format of WEA messaging;
- (2) the LA Emergency Management Department will coordinate with the relevant Participating CMS Providers and first responder organizations such as police and fire agencies and 911 Public Safety Answering Points within the city and surrounding jurisdictions to ensure that they are aware of the test and can confirm to the public that the WEA message is a test;
- (3) pre-test publicity will include a comprehensive multimedia campaign to ensure public understanding of the function and utility of WEA, the date and time of the test, and clear notification that the WEA alert will be just a test;
- (4) use of “test” wording described in the LA Emergency Management Department letter will be used in the test message; and
- (5) the WEA test is not intended as a substitute for other scheduled WEA tests.

10. We also require that the test and any post-test analysis and reports that the LA Emergency Management Department may conduct or cause to be produced are done in a manner consistent with customers’ expectations of privacy, confidentiality of Participating CMS Providers’ network information, and the overall security of the WEA systems and infrastructure.²⁴ We encourage the LA Emergency Management Department to report its test results in electronic format to the Bureau. Finally, we encourage members of the public who wish to share their experience with the test to do so by filing a description of that experience with the FCC’s Public Safety Support Center at <https://www.fcc.gov/general/public-safety-support-center>.

IV. ORDERING CLAUSE

11. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and section 1.3 of the Commission’s rules, 47 CFR § 1.3, that sections 10.400, 10.520(d), 10.530(b), and 11.45 of the Commission’s rules, 47 CFR §§ 10.400, 10.520(d), 10.530(b), and 11.45 of the Commission’s rules, ARE WAIVED, to allow a one-time test of the Wireless Emergency Alert system within the City of Los Angeles, California, on November 16, 2019,

²⁴ See 47 U.S.C. § 222.

at 10:00 a.m. PDT, which test must be conducted subject to the conditions described herein. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191 and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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