

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 21, 2019

Released: October 21, 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<sup>1</sup> to participate in an end-to-end WEA test that the City of Dallas, Texas, Office of Emergency Management (Dallas) proposes to conduct on November 2, 2019 at approximately 12:00 p.m. Central Daylight Time (CDT), in a targeted area surrounding Dallas Love Field Airport and a stretch of State Highway Loop 12 that runs adjacent to the north end of the tarmac.<sup>2</sup> For the reasons discussed below, we grant the Dallas 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.<sup>3</sup> The Commission's rules prohibit use of the WEA Attention Signal except during actual emergencies, authorized tests, and certain public service announcements.<sup>4</sup> Additionally, the Commission's rules allow testing of WEA functionality

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

<sup>2</sup> See Letter from Rocky Vaz, Director, City of Dallas Office of Emergency Management, to Michael J. Wilhelm, Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau, Federal Communications Commission (filed Oct. 18, 2019) (on file in PS Docket No. 15-91) (Dallas Letter). Dallas does not propose a back-up test date.

<sup>3</sup> 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).

<sup>4</sup> 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 EAS. 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.<sup>5</sup> 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 to assess how WEA is working within their jurisdictions.<sup>6</sup> The rules allowing such State/Local WEA Tests became effective on May 1, 2019,<sup>7</sup> 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.<sup>8</sup> 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. The Dallas Letter requests a waiver of the Commission's rules to allow Participating CMS Providers to participate in an end-to-end WEA test on Saturday, November 2, 2019, at approximately 12:00 p.m. CDT.<sup>9</sup> This proposed test is scheduled in conjunction with a Federal Aviation Administration-mandated, full-scale training exercise at Dallas Love Field Airport, in which an aircraft crash will be simulated.<sup>10</sup> As a component of the training exercise, the proposed WEA test would occur five to ten minutes prior to the beginning of the exercise, which includes a simulation plane crash on the tarmac and the deployment of several hundred first responders to the scene, and will be visible from within the terminal and a portion of the state highway.<sup>11</sup> The Dallas Letter notes that the City of Dallas "faces a wide variety of hazards that threaten our residents and guests. While many of these hazards are natural, we must also prepare for man-made/technical disasters" such as an aircraft emergency.<sup>12</sup> Furthermore, according to the Dallas Letter, "[c]onsidering the inherently transient nature of the airport and highway population, we believe that it is in the public's interest that a WEA be sent to inform the public that there is no real-life emergency occurring," coupled with the fact that the test gives the City of Dallas, as alert originators, an opportunity to collect data on how effective a WEA message is in an airport setting.<sup>13</sup>

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<sup>5</sup> 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.*

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> 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).

<sup>9</sup> Dallas Letter at 1.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 1-2.

4. The proposed WEA end-to-end test will be distributed within a targeted polygon surrounding the property of Dallas Love Field Airport and the area of State Highway Loop 12 that runs adjacent to the north end of the tarmac.<sup>14</sup> The proposed WEA test to be delivered to mobile devices would be: “Training exercise at Love Field today. Test only. No need for alarm. Info: bit.ly/2Mlx1yx”.<sup>15</sup> The test message includes a link to a webpage with additional information about the exercise, as well as a brief survey for the public to submit feedback to the test.<sup>16</sup> Dallas notes that it will utilize other notification methods, such as terminal announcements, messages on flight information displays, social media, and dynamic roadway signs, to disseminate information about the exercise in addition to WEA, which represents the tools Dallas may use in a real emergency.<sup>17</sup> This is the second live test of WEA for Dallas and is not intended to be a substitute for other scheduled WEA tests.<sup>18</sup> Additionally, Dallas has conducted several tests in the IPAWS Lab and plans to conduct an additional test prior to the proposed WEA test.<sup>19</sup>

5. The Dallas Letter outlines a “robust public information campaign” to inform the public about the WEA test and the airport exercise.<sup>20</sup> According to the Dallas Letter, the campaign will be distributed to Public Information Officers in surrounding jurisdictions and all Dallas-Fort Worth media outlets, including daily newspaper, radio, and television outlets, as well as posted on social media.<sup>21</sup> The Dallas Letter notes that “outreach material will address that the WEA test is, in fact, only a test; that mobile devices in the area surrounding the targeted area may also receive the WEA test; and, that there is a possibility for the public to receive duplicate WEA messages.”<sup>22</sup> Additionally, the Dallas Letter states that Dallas “will also coordinate information about the test with the Participating CMS Providers that operate within the City of Dallas, and all emergency authorities that operate within the City of Dallas, including police, fire, and 911 public safety answering points [PSAPs].”<sup>23</sup>

### 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.”<sup>24</sup> 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.”<sup>25</sup> We conclude that there is good cause to grant the Dallas waiver request for the WEA end-to-end test.

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<sup>14</sup> *Id.* at 1.

<sup>15</sup> *Id.* The test message is 89 characters.

<sup>16</sup> *Id.* at 1-2.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* at 1. See also *Improving Wireless Emergency Alerts and Community-Initiated Alerting; Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Dockets No. 15-91 and 15-94, Order, 34 FCC Rcd 224 (PSHSB 2019).

<sup>19</sup> Dallas Letter at 1.

<sup>20</sup> *Id.* at 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> 47 CFR § 1.3.

<sup>25</sup> 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)).

7. In light of the threat of natural and man-made disasters facing Dallas, as well as the opportunity to test Dallas's proficiency in distributing a WEA in coordination with a full-scale emergency response exercise at the airport, we find good cause to permit Dallas to test the feasibility of using WEA to warn the public of an emergency in an airport setting.<sup>26</sup> As Dallas states, it is "tasked with public information and warning, which includes alerts and notifications to our residents as well as local, state, and federal officials during emergencies that impact life, safety, and property," including those that affect residents and visitors traveling through the Dallas Love Field Airport and on the adjacent stretch of the state highway.<sup>27</sup> We are persuaded the proposed test will help to educate the public about WEA and improve the proficiency of local emergency management officials in sending WEA messages to the public, specifically by providing Dallas with data on how effective a WEA message is in an airport setting.<sup>28</sup> Accordingly, rather than wait until IPAWS is ready to support State/Local Tests, we believe the proposed test would provide alert initiators and emergency managers information of immediate value, and so conclude that it is in the public interest to grant a limited waiver of the Commission's WEA rules to allow Dallas to conduct a WEA end-to-end test as described in the Dallas Letter.<sup>29</sup>

8. We observe, however, that the proposed Dallas WEA test would not be in the public interest if it were presented in a manner that could lead the public to conclude that an actual alert is being transmitted, or would otherwise confuse the public.<sup>30</sup> Therefore, we condition this waiver upon the full implementation of the multimedia campaign and outreach plan described in the Dallas Letter, including outreach to the public, press, and relevant government agencies, and making clear that members of the public may receive multiple test messages.

9. We further condition this waiver to require that the test may only be conducted on November 2, 2019, at approximately 12:00 p.m. CDT, as referenced in the Dallas Letter, and may only be conducted for the purposes described therein. Specifically, the waiver is based upon representations that:

- (1) this test is necessary to ensure that emergency management officials in Dallas have a clear understanding of how alerts would perform in their city, specifically within the vicinity of an airport, and the public becomes familiar with the format of WEA messaging;
- (2) Dallas will coordinate with the relevant Participating CMS Providers and first responder organizations such as police and fire agencies and 911 PSAPs within the City of Dallas 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 efforts 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;

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<sup>26</sup> Dallas Letter at 1.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> This waiver does not extend to any other circumstances involving the broadcast or transmission of the WEA Attention Signal.

<sup>30</sup> For example, transmitting a WEA test message without first informing emergency responders, such as 911 call centers, and the public about the test, could predictably result in confusion or panic.

- (4) use of “test” wording as described by the Dallas 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 Dallas 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.<sup>31</sup> We encourage Dallas to report its test results in electronic format to the Bureau. Finally, we encourage members of the public who wish to share feedback on their experience with the test to do so by filing them 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, 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 WEA within a targeted area in the City of Dallas, Texas, on November 2, 2019, at approximately 12:00 p.m. CDT, 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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<sup>31</sup> See 47 U.S.C. § 222.