

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: July 8, 2020

Released: July 8, 2020

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In past years, the Federal Communications Commission, in coordination with the Federal Emergency Management Agency (FEMA), has conducted nationwide tests of the Emergency Alert System (EAS) to assess the reliability and effectiveness of the nation's alert and warning infrastructure. EAS Participants provide the Commission with information about their performance in the nationwide test through the EAS Test Reporting System (ETRS), an online system used by the Commission to collect and analyze the results of nationwide EAS tests. Under the Commission's rules, EAS Participants must renew their identifying information yearly in ETRS. This year, however, in consideration of the ongoing coronavirus (COVID-19) national emergency and FEMA's decision not to conduct a nationwide test of the EAS in 2020, the Public Safety and Homeland Security Bureau (Bureau) finds good cause to waive, on its own motion, the requirement that EAS Participants must file identifying information in the ETRS.

1 EAS Participants are those entities that are required to comply with the Commission's EAS rules, including analog radio and television stations, wired and wireless cable television systems, digital broadcast systems, digital television broadcast stations, Satellite Digital Audio Radio Service, digital cable and digital audio broadcasting systems, and wireline video systems. 47 CFR §§ 11.2(b), 11.11(a).

2 47 C.F.R. §11.61(a)(3)(iv)(A). EAS Participants file this identifying information in ETRS Form One.

3 See Executive Office of the President, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020), https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/ (National Emergency Declaration).

4 Press Release, FEMA Cancels 2020 Integrated Public Alert & Warning System National Test Due to COVID-19 Response (Jun. 19, 2020) (FEMA Press Release).

5 See 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, on the Commission's own motion or pursuant to a petition, for good cause shown). Good cause may be found if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

II. DISCUSSION

2. Under Section 1.3, the Commission may waive its rules for “good cause.”⁶ Good cause exists where special circumstances warrant a deviation from the general rule, and if the deviation will serve the public interest.⁷ We find that the COVID-19 pandemic presents good cause for waiving our yearly ETRS Form One filing requirement. COVID-19 is a respiratory illness that has spread throughout the world, reaching pandemic proportions.⁸ The United States is experiencing a national emergency due to this ongoing pandemic.⁹ In addition to the extremely serious and potentially life-threatening health consequences, the rapid and extensive spread of COVID-19 has disrupted many aspects of everyday life and lead many states and local jurisdictions to issue “stay at home” orders to limit the spread of the disease. Although many states and localities have begun lifting some of the COVID-19-related “stay-at-home” orders through various phased reopening approaches, many restrictions, including “social distancing” measures, remain in effect with no definitive dates in place for their removal.¹⁰ Federal, state, and local governments are planning how they will allow schools, businesses, and local governments to reopen.¹¹ And, even with the loosening of some restrictions, many employers continue to maintain much of their workforce working remotely for the immediate future.¹² On June 19, 2020, due to the ongoing coronavirus public health emergency response, FEMA announced that it will not conduct a nationwide test of the Integrated Public Alert and Warning System (IPAWS) in 2020.¹³

3. Although EAS Participants vastly differ in business type, size, and location, we recognize that all EAS Participants have faced challenging burdens due to the extraordinary circumstances presented by the COVID-19 pandemic. Given the ongoing pandemic, as well as FEMA’s announcement that there will be no nationwide EAS test in 2020, we believe that EAS Participants would benefit from

⁶ See 47 CFR § 1.3.

⁷ 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)).

⁸ World Health Organization, *Coronavirus Disease (COVID-19) Dashboard*, <https://www.who.int/> (Jun. 30, 2020); Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19) Cases in U.S.*, <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html> (Jun. 29, 2020).

⁹ See National Emergency Declaration.

¹⁰ See, e.g., White House Briefings, *Guidelines for Opening Up America Again* (Apr. 16, 2020), <https://www.whitehouse.gov/openingamerica> (proposing a three phased approach to recovery from the COVID-19 pandemic) (*Opening Up American Again*). Many states have begun lifting restrictions but some restrictions still remain in place even in those states. See also Safe Start Washington, *A Phased Approach to Recovery* (May 4, 2020) https://www.governor.wa.gov/sites/default/files/SafeStartWA_4May20_1pm.pdf (establishing a four-phased approach to recovery); Ethan May, *Indianapolis Will Move to its Next Reopening Phase on June 19. Here's What to Know* (June 11, 2020) <https://www.indystar.com/story/news/local/indianapolis/2020/06/11/coronavirus-indiana-indianapolis-reopening-stage-4/5341726002/> (“While professional office buildings may reopen with precautions, [the Director of the Marion County Public Health Department] encouraged workers, especially those at the highest risk, to continue working from home.”).

¹¹ See, e.g., Josie Fischels, *University of Iowa to Begin Phased Reopening of Select Campus Operations*, Daily Iowan (May 26, 2020) <https://dailyiowan.com/2020/05/22/university-of-iowa-to-begin-phased-reopening-of-select-campus-operations> (announcing the University of Iowa’s pilot program for a phased reopening which “is being instituted in smaller settings in order to gauge how to implement recommended health and safety guidelines on a larger scale.”); see also, *Opening Up America Again*.

¹² See, e.g., Shannon Murray, *Many Large Companies Plan to Keep Employees Working from Home for Now* (June 4, 2020) <https://www.fox4news.com/news/many-large-companies-plan-to-keep-employees-working-from-home-for-now>.

¹³ See FEMA Press Release.

being relieved of the yearly ETRS Form One filing requirement this year. We find that the benefit of not filing this form in the midst of EAS Participants' need to respond to the COVID-19 pandemic outweighs the cost to the Bureau of not receiving the updated information from EAS Participants' Form One filings, particularly in a year when there will be no nationwide EAS test. Accordingly, we find it is in the public interest to waive this filing requirement for EAS Participants to allow them to allocate their available resources to respond to the pandemic and other critical aspects as needed.

III. ORDERING CLAUSES

4. 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, of the Commission's rules, Section 11.61(a)(3)(iv)(A) of the Commission's rules, 47 CFR § 11.61(a)(3)(iv)(A), is waived to the extent provided 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.

5. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Lisa M. Fowlkes, Chief
Public Safety and Homeland Security Bureau