

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

In the Matter of)
Wireless Emergency Alert Performance Testing) PS Docket No. 22-160
Wireless Emergency Alerts) PS Docket No. 15-91
Amendments to Part 11 of the Commission's Rules)
Regarding the Emergency Alert System) PS Docket No. 15-94

ORDER

Adopted: August 30, 2022

Released: August 30, 2022

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, the Public Safety and Homeland Security Bureau (PSHSB) of the Federal Communications Commission's (Commission) grants a waiver of the Commission's rules, on its own initiative, to permit Participating Commercial Mobile Service (CMS) Providers to participate in a planned end-to-end Wireless Emergency Alert (WEA) test initiative.

2. Based on the unique circumstances presented here, as discussed below, we find that waiver of the Commission's rules would serve the public interest. Accordingly, PSHSB's 2022 WEA Performance Exercise Partners may send WEA test messages using the Public Safety Message alert category, which would be transmitted to all members of the public with WEA-capable devices and who have not opted out from receiving WEA messages, consistent with their assigned test schedules and geographic areas as set forth in the Appendix.

II. BACKGROUND

3. WEA allows authorized government entities to send geographically-targeted emergency alerts to commercial wireless subscribers who have WEA-capable mobile devices and whose commercial mobile 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

1 Participating CMS Providers are commercial mobile service providers that have elected voluntarily to transmit WEA alert messages. 47 CFR §§ 10.10(d), (f); see also FCC, Master WEA Registry, https://www.fcc.gov/files/weamasterregistry112019xls (last visited Aug. 11, 2022) (providing the Commission's account of all Participating CMS Providers).

2 A list of the alert originators who have entered into partnership agreements with PSHSB is set forth in the Appendix (hereinafter referred to as PSHSB's 2022 WEA Performance Exercise Partners).

3 47 CFR § 10.400(d).

4 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).

announcements.⁵ The Commission's rules allow WEA end-to-end tests that reach the public only when the test is conducted using the State/Local WEA Test category, which is only delivered to consumers who have affirmatively opted in to receive them.⁶

4. In 2021, PSHSB, in conjunction with eleven testing partners and the Federal Emergency Management Agency (FEMA), gathered data regarding WEA's performance during a nationwide activation.⁷ While PSHSB found that WEA generally performed reliably on the whole, based on this data, PSHSB observed there was room for improvement.⁸ PSHSB committed to examine why roughly 10% of mobile devices reported not receiving the nationwide WEA test and why 32% of mobile devices reported receiving a duplicate test message.⁹ Further, because the 2021 WEA test was delivered nationwide, PSHSB's ability to assess WEA's performance was limited. PSHSB was unable to gather data regarding Participating CMS Providers' ability to deliver WEA messages accurately to a geographically targeted area.¹⁰ PSHSB committed to continue to work with FEMA to improve WEA testing in this regard.¹¹

5. On April 21, 2022, PSHSB issued a Public Notice eliciting interest from alert originators to conduct a localized, end-to-end WEA performance exercise with enhanced WEA-geotargeting enabled.¹² Over 60 entities from 24 states responded to the Public Notice.¹³

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."¹⁴ 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

⁵ 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).

⁶ 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 and in periodic tests of WEA's C-Interface. *Id.* On November 1, 2016, the Commission adopted a Report and Order that amended 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. *See 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, 11154-57, paras. 65-68 (2016) (*WEA R&O*).

⁷ *See Report: August 11, 2021 Nationwide WEA Test, Wireless Emergency Alerts*, PS Docket No. 15-91, Report, at 1 (PSHSB, Dec. 31, 2021), <https://docs.fcc.gov/public/attachments/DOC-378907A1.pdf>.

⁸ *See id.*

⁹ *See id.* at 26.

¹⁰ 47 CFR § 10.450(a); *see also Wireless Emergency Alerts, Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket No. 15-91, PS Docket No. 15-94, Second Report and Order and Second Order on Reconsideration, 33 FCC Rcd 1320, 1325 (2018) ("Geo-fencing allows mobile devices to compare their current location to the target area specified by the alert originator and to display the Alert Message only if it is located within the target area.").

¹¹ *See Report: August 11, 2021 Nationwide WEA Test, Wireless Emergency Alerts*, PS Docket No. 15-91, Report, at 25 (PSHSB, Dec. 31, 2021), <https://docs.fcc.gov/public/attachments/DOC-378907A1.pdf>.

¹² Public Safety and Homeland Security Bureau Seeks Partners to Help with WEA Performance Testing, Public Notice, PS Docket No. 22-160, DA 22-445 (April 21, 2022).

¹³ *See* PS Docket No. 22-160.

¹⁴ 47 CFR § 1.3.

the public interest.”¹⁵ Based on the circumstances in this case, we find good cause exists to grant waivers of the Commission’s rules to allow PSHSB’s 2022 WEA Performance Exercise Partners to conduct WEA tests using the Public Safety Message category, consistent with their assigned test schedules and geographic areas as set forth in the Appendix.

7. Since its launch one decade ago, WEA has become an essential part of America’s emergency preparedness. WEA has been used more than 70,000 times to warn the public about dangerous weather, missing children, and other critical situations – through alerts on compatible cell phones and other mobile devices.¹⁶ As the Commission observed earlier this year, “gaining visibility into WEA’s key performance indicators and developing a shared understanding among emergency management agencies and the public regarding the system’s capabilities will help promote its use and improvement.”¹⁷ This large-scale WEA test initiative will provide PSHSB with critical information regarding WEA performance. PSHSB’s 2022 WEA Performance Exercise Partners will conduct public surveys to gather and share with PSHSB data regarding WEA performance in their respective locations.¹⁸ By using the Public Safety Message category – an alert category that emergency managers may choose to provide important information during an actual emergency – this test initiative will mirror, as closely as possible, a real-world test activation. PSHSB will analyze this information to understand how WEA works across the country and assess whether, and if so, what measures it might recommend to the Commission or to stakeholders to help make WEA more effective. Specifically, PSHSB will analyze this data and attempt to determine: (1) the proportion of the public that receives WEA messages; (2) how quickly customers receive WEA messages; and (3) the proportion of WEA recipients that receive the alert while located outside of the targeted geographic area, all under actual-use conditions.¹⁹

8. This information regarding WEA’s performance will help address a gap in alert originators’ understanding of WEA’s end-to-end performance. PSHSB has received reports that emergency management agencies are declining to use WEA in situations where it could save lives because they lack information about, and confidence in, how WEA works in practice.²⁰ During the

¹⁵ 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)).

¹⁶ See Federal Emergency Management Agency, *FEMA Celebrates 10th Anniversary of Wireless Emergency Alerts on Integrated Public Alert and Warning System* (June 7, 2022), <https://www.fema.gov/press-release/20220607/fema-celebrates-10th-anniversary-wireless-emergency-alerts-integrated-public>.

¹⁷ See *Wireless Emergency Alerts, Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket No. 15-91, PS Docket No. 15-94, Further Notice of Proposed Rulemaking, FCC 22-31, para. 2 (2018).

¹⁸ PSHSB has executed a Memorandum of Understanding with each of PSHSB’s 2022 WEA Performance Exercise Partners that requires PSHSB’s 2022 WEA Performance Exercise Partners to conduct this test pursuant to certain terms and conditions, including that survey information be collected and shared 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. See 47 U.S.C. § 222.

¹⁹ See 47 CFR § 10.450 (“A Participating CMS Provider is considered to have matched the target area when they deliver an Alert Message to 100 percent of the target area with no more than 0.1 of a mile of overshoot.”).

²⁰ See, e.g., Shannon Najmabadi, *First Phone Alert for the Marshall Fire Sent 42 Minutes After I Started—And Only to 215 Contacts*, Colorado Sun (Jan. 6, 2022), <https://coloradosun.com/2022/01/06/marshall-fire-evacuation-911/> (stating that Boulder County’s Office of Emergency Management had not completed their authorizations to use WEA in part because of concerns about the accuracy of WEA geotargeting); *Utah Discontinues Wireless Emergency Alerts at State Lines* (Apr. 13, 2020), <https://coronavirus.utah.gov/utah-discontinues-wireless-emergency-alerts-at-state-lines/> (stating that the Utah Division of Emergency Management discontinued the use of WEA for COVID-19 messaging near state lines because of geographic overshoot); E-mail from Simone Ramel McKay, Program

(continued....)

Marshall fire in Boulder, CO, for example, the WEA system was not used due to “concerns about its reliability and delivery.”²¹ Many Boulder residents “did not receive any timely emergency alert to evacuate from the blaze.”²²

9. We believe that granting a waiver to permit PSHSB’s 2022 WEA Test Partners to conduct an end-to-end test using the Public Safety Test message category will help PSHSB assess WEA’s readiness and effectiveness as a public warning system in diverse areas across the nation and will help provide needed understanding of WEA’s capabilities among emergency managers. Accordingly, based on the totality of the circumstances, we grant PSHSB’s 2022 WEA Test Partners waivers of the Commission’s rules to the extent described herein. This waiver is limited in scope to WEA activations by PSHSB’s 2022 WEA Performance Exercise Partners in the geographic areas and on the specific dates and times described in the attached Appendix.

10. We condition this waiver on PSHSB’s 2022 WEA Test Participants taking all appropriate steps to promote public awareness of, and participation in, these tests, including coordination with relevant state and local emergency authorities and first responder organizations such as Public Safety Answering Points, police, and fire agencies. The proposed tests would not be in the public interest if they 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.²³

11. We further condition this waiver on the use of a test alert that contains the following content, which is appropriate for both a 90- and 360-character maximum message:²⁴

TEST. Go to <https://www.fcc.gov/wea> to provide feedback on your receipt of this test.

PSHSB’s 2022 WEA Performance Exercise Partners may also initiate a Spanish-language version of the test alert that contains the following text, which is appropriate for both a 90- and 360-character maximum message:

PRUEBA. Vaya a <https://www.fcc.gov/wea-es> y evalúe la recepción de esta prueba.

IV. ORDERING CLAUSE

12. 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, ARE WAIVED, to allow PSHSB’s 2022 WEA Performance Exercise Partners to conduct a WEA test targeting the geographic areas described in the attached Appendix at the specific dates and times also described in the attached Appendix, pursuant to the terms of this Order.

13. 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.

Manager, Spokane County Emergency Management, to Nicole McGinnis, Deputy Chief, Public Safety and Homeland Security Bureau, FCC (Aug. 9, 2021) (on file with author) (expressing concern about the accuracy of WEA geo-targeting)

²¹ See ; Letter from Senators John Hickenlooper and Michael F. Bennet to Jessica Rosenworcel, Chairwoman, FCC (April 20, 2022) (Sens. Hickenlooper/Bennet Letter).

²² See Sens. Hickenlooper/Bennet Letter.

²³ 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.

²⁴ In order to simplify the content of the test alert, this text must be used in place of the text provided in paragraph 9 of the MOU entered into with the 2022 WEA Performance Partners.

FEDERAL COMMUNICATIONS COMMISSION

Debra Jordan
Chief
Public Safety and Homeland Security Bureau
Federal Communications Commission

APPENDIX

**PSHSB 2022 WEA Performance Exercise Partners' Assigned
Target Test Areas, Test Dates and Times, and Alternate Test Dates and Times**

Entity	State	Target Test Area Description/Coordinates and radius	Date of test	Time of Test EDT	Alternate Date of Test	Alternate Time of Test EDT
Calhoun County Consolidated Dispatch Authority	MI	42.27044289681982, -84.96372199758792, 0.4 mile radius	9/12/2022	10:00 AM	9/19/2022	10:00 AM
Fairfax County Department of Emergency Management and Security	VA	38.847672/- 77.375328, 0.4 mile radius	9/12/2022	10:00 AM	9/19/2022	10:00 AM
South Carolina Emergency Management Division	SC	34.2979 N, 81.3159 W, 2.0 mile radius	9/12/2022	10:00 AM	9/19/2022	10:00 AM
McDonough County	IL	40.46500, -90.6857, 0.4 mile radius	9/12/2022	11:00 AM	9/19/2022	11:00 AM
Oklahoma Department of Emergency Management and Homeland Security on behalf of the City of Woodward	OK	36.433644 -99.390577, 0.69 mile radius	9/12/2022	11:00 AM	9/19/2022	11:00 AM
Treasure County	MT	46.2910190°N 107.2293613°W, 0.691 mile radius	9/12/2022	12:00 PM	9/19/2022	12:00 PM
Summit County, Colorado Office of Emergency Management	CO	39°37'43"N 106°04'08"W; 0.691 mile radius	9/12/2022	12:00 PM	9/19/2022	12:00 PM
Adams County Emergency Management	WA	46.54.38 N, 118.05.59 W, 0.69 mile radius	9/12/2022	1:00 PM	9/19/2022	1:00 PM
KITTCOM (Kittitas County 9-1-1)	WA	47.24116743936795, -121.0380067013023, 0.69 mile radius	9/12/2022	1:00 PM	9/19/2022	1:00 PM
County of Orange	CA	33.42.31N 117.38.05 W, 0.69 mile radius	9/12/2022	1:00 PM	9/19/2022	1:00 PM
County of Berrien, Michigan, Sheriff's Office Emergency Management and Homeland Security Division	MI	42°06'32.84"N, 86°28'30.474"W 0.69 mile radius	9/12/2022	3:00 PM	9/19/2022	3:00 PM

Entity	State	Target Test Area Description/Coordinates and radius	Date of test	Time of Test EDT	Alternate Date of Test	Alternate Time of Test EDT
Cambria County Department of Emergency Services	PA	40.663357, -78.780907, 0.4 mile radius	9/12/2022	3:00 PM	9/19/2022	3:00 PM
Flagler County, through its Emergency Management Office	FL	29.4705160 N 81.2441360 W 0.39894228 mile radius	9/12/2022	3:00 PM	9/19/2022	3:00 PM
Oconee County Emergency Management Agency	GA	33 49 24N 83 26 21 W, 0.4 mile radius	9/12/2022	3:00 PM	9/19/2022	3:00 PM
Kitsap County Department of Emergency Management	WA	47 30 0.348 N 122 46 28.55 W 0.4 mile radius	9/12/2022	4:00 PM	9/19/2022	4:00 PM
Sedgwick County Emergency Management	KS	37.68608908534184, -97.33429541233347; 37.69341322571496, -97.33431058519848; 37.69334118851247, -97.3434901685172; 37.68595700403985, -97.34312601975743	9/12/2022	4:00 PM	9/19/2022	4:00 PM
Combined Regional Communications Authority (CRCA)	CO	38.435876, -105.242220, 0.4 mile radius	9/12/2022	5:00 PM	9/19/2022	5:00 PM
California Governor's Office of Emergency Services	CA	38.570223 -121.305273, 0.4 mile radius	9/12/2022	6:00 PM	9/19/2022	6:00 PM
City of Chula Vista	CA	32.639560, -117.083624, 0.7 mile radius	9/12/2022	6:00 PM	9/19/2022	6:00 PM
Thurston County	WA	47.057194, -122.701034, 0.69 mile radius	9/12/2022	6:00 PM	9/19/2022	6:00 PM
Delaware County Office of Homeland Security and Emergency Management	OH	40.413876 N -82.9730713 W; 40.4140424 N -82.9516946 W; 40.4028675 N -82.951731 W; 40.4029229 N -82.9732169W	9/13/2022	10:00 AM	9/20/2022	10:00 AM
Gilmer, County Public Safety	GA	Lat 34.655723 Long -84.542001 1.5 mile radius	9/13/2022	10:00 AM	9/20/2022	10:00 AM
Pennsylvania Emergency Management Agency	PA	40.33054 -76.86236, 0.4 mile radius	9/13/2022	10:00 AM	9/20/2022	10:00 AM

Entity	State	Target Test Area Description/Coordinates and radius	Date of test	Time of Test EDT	Alternate Date of Test	Alternate Time of Test EDT
Suffolk County Fire Rescue	NY	(-)73:16:08.5097, 40:47:49.7189, 0.25 mile radius	9/13/2022	10:00 AM	9/20/2022	10:00 AM
Oklahoma Department of Emergency Management and Homeland Security on behalf of Beckham County	OK	35.214541 -99.866651, 0.69 mile radius	9/13/2022	11:00 AM	9/20/2022	11:00 AM
Bannock County Sherriff's Office	ID	42.796880 (lat), -112.249752, 0.69 mile radius	9/13/2022	12:00 PM	9/20/2022	12:00 PM
Pitkin County Regional Emergency Dispatch Center	CO	39.190445N; 106.817109W 0.69 mile radius	9/13/2022	12:00 PM	9/20/2022	12:00 PM
Sheridan County Emergency Management	WY	44.795040, -106.956575, 0.69 mile radius	9/13/2022	12:00 PM	9/20/2022	12:00 PM
Butte County	CA	39.29.17.7 N, 121.28.47.8 W, 0.69 mile radius	9/13/2022	1:00 PM	9/20/2022	1:00 PM
City of Laguna Beach	CA	33 32 43 N 117 46 51 W, 0.4 mile radius	9/13/2022	1:00 PM	9/20/2022	1:00 PM
Pierce County	WA	47 13 44.29 122 28 13.35 0.4 mile radius	9/13/2022	1:00 PM	9/20/2022	1:00 PM
Charlotte-Mecklenburg Emergency Management	NC	35.23757, -80.8404 35.23447, -80.8329 35.24934, -80.8284 35.24972, -80.8369	9/13/2022	3:00 PM	9/20/2022	3:00 PM
Chester County Department of Emergency Services	PA	39.96033206971193, -75.5838555892012, 0.4 mile radius	9/13/2022	3:00 PM	9/20/2022	3:00 PM
Marion County Sheriff's Office	FL	29.288450 -82.172569, 0.69 mile radius	9/13/2022	3:00 PM	9/20/2022	3:00 PM
City of Norfolk, Emergency Preparedness and Response	VA	36.832250 -76.280150, 0.4 mile radius	9/13/2022	3:00 PM	9/20/2022	3:00 PM

Entity	State	Target Test Area Description/Coordinates and radius	Date of test	Time of Test EDT	Alternate Date of Test	Alternate Time of Test EDT
City of Chicago Office of Emergency Management and Communications (OEMC)	IL	41.889130/-87.640038; 41.889792/-87.623937; 41.880785/-87.624164; 41.880548/-87.639742	9/13/2022	4:00 PM	9/20/2022	4:00 PM
State of Idaho Office of Emergency Management	ID	43.65970 N, -116.32702, 0.4 mile radius	9/13/2022	5:00 PM	9/20/2022	5:00 PM
Jefferson County Communications Center Authority	CO	39.30.2554N, 105.21.8510W; 39.30.2609N, 105.20.6070W; 39.29.2965N, 105.20.6000W; 39.29.2913N, 105.21.8442W	9/13/2022	5:00 PM	9/20/2022	5:00 PM
County of San Diego Office of Emergency Services	CA	33.0841536850, -116.6149022264; 33.0842234033, -116.5904167467; 33.0732299350, -1165903741163; 33.0731602255, -116.6148565298; 33.0841536850, -116.6149022264	9/13/2022	6:00 PM	9/20/2022	6:00 PM
King County Office of Emergency Management	WA	47.445514 N, 122.154151 W, WGS84 datum, 0.4 mile radius	9/13/2022	6:00 PM	9/20/2022	6:00 PM
Sutter County Office of Emergency Management	CA	39.09.04.66 N 121.39.19.71 W; 39.08.43.74 N 121.38.06.41 W; 39.08.31.06 N 121.38.04.84 W; 39.08.29.81 N 121.39.19.32 W	9/13/2022	6:00 PM	9/20/2022	6:00 PM
Grundy County Emergency Management Agency, Illinois	IL	41.37090799, -88.43298453, 0.69 mile radius	9/13/2022	11:00AM	9/20/2022	11:00AM