

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

In the Matter of)	
)	
Amendments to Part 11 of the Commission's Rules)	PS Docket No. 15-94
Regarding the Emergency Alert System)	

ORDER

Adopted: December 19, 2023

Released: December 19, 2023

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, the Public Safety and Homeland Security Bureau (Bureau) addresses the request filed by The Cromwell Group, Inc. of Illinois (Petitioner or Cromwell Illinois),¹ seeking an extension of certain December 12, 2023 Emergency Alert System (EAS) compliance deadlines that EAS Participants prioritize the Common Alerting Protocol (CAP)-formatted version of an EAS message when it receives both a legacy version and a CAP-formatted version of the same alert.² For the reasons discussed below, the Bureau grants the request.

II. BACKGROUND

2. *Overview of the EAS.* The EAS is a national system used to disseminate public warnings of impending emergencies over broadcast, cable, and satellite networks to consumers' radios, televisions, and other audio and video devices.³ Both the Federal Communications Commission (Commission) and the Federal Emergency Management Agency (FEMA) jointly oversee the EAS. Authorized alert originators⁴ may transmit EAS messages to EAS Participants (for distribution to the public) either over FEMA's Internet-based platform known as the Integrated Public Alert and Warning System (IPAWS) using the CAP format, or over the so-called "legacy" EAS distribution system, a broadcast-based process in which messages are transmitted via audio channels and relayed from one EAS Participant to another throughout a geographic area.⁵ EAS Participants typically receive legacy EAS messages by monitoring

¹ The Cromwell Group, Inc. of Illinois, Petition for Temporary Waiver, PS Docket No. 15-94 (filed Dec. 12, 2023).

² *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket No. 15-94, Report and Order, 37 FCC Rcd 11844 (2022) (*2022 Part 11 Report and Order*) *see also* PSHSB Announces Effective Date and Compliance Dates for Certain Emergency Alert System (EAS) Rules, PS Docket No. 15-94, Public Notice, DA 22-1189 (rel. Nov. 10, 2022). The FCC also adopted changes to the language associated with the national alert originator code, the national test code, and the national emergency code. Petitioners are not seeking an extension of these compliance deadlines.

³ *Id.* *See* 47 CFR § 11.2(b) (defining "EAS Participants").

⁴ *See* 47 CFR § 11.31 (describing "EAS Protocol"); *see also* FEMA, *Alerting Originators*, <https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system/public-safety-officials/alerting-authorities#:~:text=An%20Alert%20Originator%20is%20an,composing%20and%20issuing%20the%20alert> (last updated June 26, 2023).

⁵ In the legacy EAS, when an EAS Participant broadcasts an alert message, the message is received not only by that EAS Participant's local audience, but also by downstream EAS Participants that monitor the transmission, following (continued....)

audio transmissions from other EAS Participants or other sources. EAS Participants receive IP-based messages transmitted over IPAWS by periodically checking an Internet-connected server (a process known as “polling”) for messages from alert originators in CAP format.⁶ Alert messages transmitted over the legacy EAS are encoded in the Specific Area Message Encoding (SAME) protocol format (developed by the National Weather Service for weather alerts) and consist of audible tones that convey header codes, a two-tone attention signal, an audio stream (typically no longer than two minutes of a person’s voice), and an end-of-message signal.⁷ The header codes identify the type of event covered by the alert, the originator of the message, and the relevant times, locations, and geographic areas. CAP-formatted alerts disseminated over the IPAWS platform can convey considerably more information than legacy EAS-based alerts in the SAME format. For example, CAP alert messages may include detailed directions on how the public should respond to the specific emergency, information in languages other than English, picture and video files, and URLs. This information cannot be relayed when CAP alerts are converted into legacy alerts for distribution over the legacy EAS;⁸ all data other than the header codes are lost in this conversion process.

3. On September 30, 2022, the Commission took measures to promote clarity and accessibility of alerts and to maintain public confidence in the EAS as a reliable source of emergency information.⁹ Among other actions, the Commission adopted new rules to increase the proportion of alerts distributed to the public that include enhanced information.¹⁰ With a few enumerated exceptions, the Commission requires EAS Participants, upon receiving a legacy EAS alert message, to check whether a CAP version of the same alert is available by polling the IPAWS feed for CAP-formatted EAS messages.¹¹ If a CAP version is available, the EAS Participants must transmit the CAP version rather than the legacy version. EAS Participants may not transmit an alert in legacy format until at least 10 seconds after receiving its header codes unless they confirm by polling the IPAWS feed that no matching CAP version of the message is available.¹² EAS Participants must comply with this requirement, codified at Section 11.55(c)(2) of the Commission’s rules, by December 12, 2023.¹³

a matrix of monitoring assignments set forth in State EAS Plans. The applicable State EAS Plan assigns each EAS Participant alert the sources from which it is required to monitor alert messages that they may transmit. The EAS Participant uses specialized EAS equipment to decode the header codes in each alert message it receives and, if the alert is in a category and geographic location relevant to that entity, it will rebroadcast the alert. That rebroadcast, in turn, is received not only by that entity’s audience, but also by additional downstream EAS Participants that monitor it. This process of checking and rebroadcasting the alert will be repeated until all affected EAS Participants in the relevant geographic area have received the alert and have delivered it to the public.

⁶ See 47 CFR 11.52(e)(2); Federal Emergency Management Agency (FEMA), *EAS Participants*, <https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system/broadcasters-wireless/emergency-alert-system-participants> (last updated July 28, 2021).

⁷ See 47 CFR § 11.31.

⁸ For example, if enhanced text is included in a CAP alert, a video service EAS Participant (such as a TV broadcaster or cable system) that receives it will generate a visual message that includes not only the header code data (as is the case with legacy EAS alerts) but also that enhanced text, which might include remedial actions to avoid hazards potentially posed by the emergency event.

⁹ *2022 Part 11 Report and Order* at 1-2, paras. 1-3 and at 4-5, para. 10.

¹⁰ *2022 Part 11 Report and Order* at 6, para. 14.

¹¹ This requirement applies only to valid alert messages relating to event categories and locations for which the EAS Participant normally transmits such alerts pursuant to the State EAS Plan. The requirement does not apply to national emergency messages (i.e., alerts with the EAN event code), messages associated with national tests of the EAS (bearing the NPT code), or required weekly test messages (bearing the RWT code).

¹² *2022 Part 11 Report and Order* at 5, para. 11.

¹³ See 47 CFR § 11.55(c)(2).

4. *Cromwell Illinois's Petition.* On December 12, 2023, Petitioner filed a request for a 90-day temporary waiver of compliance deadline for CAP prioritization falling on December 12, 2023, or until March 11, 2024.¹⁴ In support of its request, Petitioner states that it is the owner of 11 full power radio stations¹⁵ that utilize Gorman-Redlich EAS units.¹⁶ The Cromwell Illinois Stations have not yet completed the modifications because, they state, their vendor has not fulfilled the orders placed by Cromwell Illinois. Petitioner asserts that the stations are continuing to work closely with their vendor to procure and install the new EAS decoder/encoders and expect completion of the equipment exchanges and installation within the next two weeks, and that updated computer chips were sent via mail from by the vendor on December 12, 2023. When the chips are received, Cromwell Illinois' engineer will install the chips and update the computer software at the same time.¹⁷

5. Petitioner thus seeks a limited, temporary 90-day waiver for the EAS units for which the required hardware upgrades will not be complete prior to December 12, 2023, and request that it be granted an extension until March 11, 2024, to come into full compliance with the Commission's new EAS rules.

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."¹⁸ 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."¹⁹ The waiver applicant generally faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.²⁰ Based on the circumstances described herein, we conclude there is good cause to provide an short, temporary extension of time until March 11, 2024, to accommodate the anticipated hardware delivery and installation time estimated by Cromwell Illinois.

7. Petitioner argues the limited duration of its request, as well as the inability of Petitioner to update its EAS equipment solely through software updates, which is the method the Commission anticipated EAS Participants would employ to accomplish the equipment modifications required by the rule change, justify the waiver. Cromwell Illinois further argues that it promptly identified the required

¹⁴ At the request of staff, counsel to Petitioners clarified that wavier is sought specifically at to sections 11.31(d)(2), 11.51(d)(3), and 11.51(d)(3)(iii) of the Commission's rules, 47 CFR §§ 11.31(d)(2), 11.51(d)(3), and 11.51(d)(3)(iii).

¹⁵ Petitioner identifies the following stations as covered by the requested waiver: WCRA-AM, Effingham, IL (Facility ID No. 19047), WCRC-FM, Effingham, IL (Facility ID No. 19048), WCBH-FM, Casey, IL (Facility ID No. 19050), WZNK-FM, Sullivan, IL (Facility ID No. 57461), WZUS-FM, Macon, IL (Facility ID No. 61225), WEJT-FM, Shelbyville, IL (Facility ID No. 65570), WMCI-FM, Mattoon, IL (Facility ID No. 65572), WYDS-FM, Decatur, IL (Facility ID No. 71440), WWGO-FM, Charleston, IL (Facility ID No. 72317), WHQQ-FM, Neoga, IL (Facility ID No. 73997), and WJKG-FM, Altamont, IL (Facility ID No. 191579) (collectively, the Cromwell Illinois Stations).

¹⁶ Petitioners state that other stations owned by Cromwell Illinois and its affiliates have EAS encoder-decoder units manufactured by Sage Alerting Systems and are covered by the waiver to allow EAS participants who are Sage customers an additional 90 days to comply with the EAS Report and Order. Extension request at 2, *citing Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket No. 15-94, Order, DA 23-1111 (rel. Nov. 28, 2023).

¹⁷ Extension Request at 2.

¹⁸ 47 CFR § 1.3.

¹⁹ *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)).

²⁰ *WAIT Radio v. FCC*, 418 F.2d at 1157.

equipment replacements and worked with its vendor to ensure compliance using alternative procedures.²¹

8. In further support of its request, counsel clarified to staff that Cromwell Illinois' outside consulting engineer has been working with its vendors since September 25, 2023 to upgrade the relevant equipment, speaking with the vendor half a dozen times leading up to the submission of the waiver. Cromwell Illinois' consultant has also completed on-site training with the vendor to be prepared to install the new chips and effectuate the upgrade promptly when the chips are received. Petitioner's counsel represents that the chips have been sent to Cromwell Illinois for installation in all of their units, and are pending receipt.

9. We find that the limited nature of the extension to accommodate the unexpected delay from their vendor, coupled with the prompt and persistent action by the Petitioner upon the discovery of the non-compatibility of the subject equipment, including the repeated contact with the vendor other actions consistent with persistent effort to comply, justifies a limited extension of time and will serve the public interest. We agree with Petitioner that a narrowly-tailored brief extension, responding to unforeseen circumstances, will permit Petitioner to provide critical emergency and public safety information to the public promptly in compliance with the Commission's updated technical standards.²²

10. In order to ensure adequate service to its customers during the pendency of the upgrades, we condition our waiver on the requirement that the EAS equipment now in place will continue to operate in all respects except for the requirements related to the rules waiver herein until the new equipment is installed, so there will be no interruption to alerting.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), and section 1.3 of the Commission's rules, 47 CFR § 1.3, section 11.55(c)(2) of the Commission's rules, 47 CFR § 11.55(c)(2), IS WAIVED, for Petitioners' stations WCRA-AM, Effingham, IL (Facility ID No. 19047), WCRC-FM, Effingham, IL (Facility ID No. 19048), WCBH-FM, Casey, IL (Facility ID No. 19050), WZNX-FM, Sullivan, IL (Facility ID No. 57461), WZUS-FM, Macon, IL (Facility ID No. 61225), WEJT-FM, Shelbyville, IL (Facility ID No. 65570), WMCI-FM, Mattoon, IL (Facility ID No. 65572), WYDS-FM, Decatur, IL (Facility ID No. 71440), WWGO-FM, Charleston, IL (Facility ID No. 72317), WHQQ-FM, Neoga, IL (Facility ID No. 73997), and WJKG-FM, Altamont, IL (Facility ID No. 191579), to comply with the Commission's September 2022 *Report and Order*. The Request for an Extension of Compliance Deadline is GRANTED for these Cromwell Illinois Stations until March 11, 2024.

12. 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 0.392.²³

FEDERAL COMMUNICATIONS COMMISSION

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

²¹ Extension Request at 3.

²² See, e.g., Extension Request at 4.

²³ See 47 CFR §§ 0.191 and 0.392.