



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

**Via Electronic Submission to FCC on <https://www.fcc.gov/ecfs/>**

July 21, 2023

Jessica Rosenworcel, Chairwoman  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re: Comments on Federal Communications Commission’s Further  
Notice of Proposed Rulemaking on Wireless Emergency Alerts,  
PS Docket No. 15–94 and PS Docket No. 15–91; FCC 23-30**

Dear Chairwoman Rosenworcel:

The Attorneys General of New York, Colorado, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and Wisconsin (the “States”) and New York City submit these comments to the Federal Communications Commission on its proposal for expanding language access to wireless emergency alerts (WEAs), 88 Fed. Reg. 40,606 (June 21, 2023). As you publicly stated in April 2023 when presiding over the Commission’s adoption of the proposal, WEAs “have become part of the fabric of modern life.”<sup>1</sup> Indeed, WEAs are a critical emergency alerting tool through which individuals automatically receive government warnings about extreme weather hazards and other public emergencies directly on their cell phones, through geographically-targeted text-like alerts that feature an attention-grabbing audio signal and vibration cadence. As we encounter more extreme weather events as an impact of climate change,<sup>2</sup> ensuring widespread and equitable access to emergency warnings is a critical tool for ensuring public safety and advancing environmental justice.

We applaud the Commission for proposing updates to its regulations that will make these alerts, which can save lives and help safeguard property, more accessible to millions of residents across our jurisdictions. The changes will be particularly important to people who have been underserved by WEAs since they

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<sup>1</sup> <https://docs.fcc.gov/public/attachments/DOC-392730A2.pdf>.

<sup>2</sup> <https://www.epa.gov/climate-indicators/weather-climate>.

were launched over a decade ago, particularly those who are not proficient in either English or Spanish.

The Commission seeks comments on actions it “can take to empower alerting authorities to deliver emergency alerts in an accessible manner to everyone in their communities”<sup>3</sup> and on how its “proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility.”<sup>4</sup> More specifically, the Commission requests comments on its proposal to require wireless companies to enable machine translation software on cell phones that will translate WEAs or, in the alternative, install alert templates on cell phones that are prepared by human translators and activated in the user’s pre-selected language when a cell phone receives an English-language alert, and on a proposed list of 13 languages (besides English) in which WEAs would be available.<sup>5</sup>

With the shared objective of supporting the Commission and its partners in realizing a more equitable multilingual alerting system, we offer these comments on the Commission’s WEA language access proposals.

### **Summary of the Comments**

We are concerned that relying on machine translation to translate WEAs from English to other languages may result in inaccurate alerts. It is critical that alerts be accurate. We therefore urge the Commission to adopt the alternative approach of requiring installation on cell phones of translated alert templates prepared for the National Weather Service and other federal alert originators by human translators.

We are also concerned that the 13 languages identified by the Commission do not take into account the limited English proficiency of millions of people. As a result, we urge the Commission to require wireless companies to issue WEAs in more languages. Further, we recommend that the FCC re-assess those languages every few years based on the most recent American Community Survey census data reflecting current immigration patterns and Limited English Proficiency (LEP) rates.

The Commission has also requested input on making WEAs more accessible to people with disabilities. We do not offer specific comments but fully support

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<sup>3</sup> 88 Fed. Reg. at 40,607.

<sup>4</sup> *Id.* at 40,620.

<sup>5</sup> *Id.* at 40,608.

those efforts, and note that functions such as text-to-speech for WEAs may also aid those who are not able to read well.

### **Background and Interests of the States and New York City**

As representatives of the States and New York City, we have a strong interest in supporting actions by the Commission and its partners in government that will make life-saving WEAs more accessible to all residents in our jurisdictions. Indeed, the Commission has itself recognized that WEAs “should be accessible to all.”<sup>6</sup>

The impacts of climate change have made WEAs even more critical. According to EPA, “extreme weather events such as heat waves and large storms are likely to become more frequent or more intense with human-induced climate change”<sup>7</sup>—a reality made all too familiar by this summer’s record-setting heat waves and other extreme weather events. Emergency alerts about extreme weather events, natural disasters and other public hazards are vital to the safety and well-being of our residents, including those whose primary language is not English. Indeed, as climate change worsens, its impacts fall disproportionately on socially vulnerable populations and environmental justice communities.<sup>8</sup> We therefore regard the expansion of accessibility to WEAs as a key tool for advancing environmental justice.

The impacts of Hurricane Ida in 2021 illustrate the importance of enhancing language access and equity in federal emergency alerting. In New York City, nearly all 13 people who lost their lives from Hurricane Ida’s floodwaters were immigrants from Asia.<sup>9</sup> American Community Survey data indicates that between 26% and

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<sup>6</sup> <https://www.fcc.gov/news-events/notes/2021/04/08/emergency-alerts-critical-multilingual-outreach-tool>.

<sup>7</sup> <https://www.epa.gov/climate-indicators/weather-climate>.

<sup>8</sup> See Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts. U.S. Environmental Protection Agency, EPA 430-R-21-003 (Sept. 2021), [https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability\\_september-2021\\_508.pdf](https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf). EPA defines environmental justice as “fair treatment and meaningful involvement of all people regardless of race, color, national origin or income with respect to development, implementation, and enforcement of environmental laws, regulations and policies.” EPA, EPA-300-B-1-6004, EJ 2020 Action Agenda: The U.S. EPA’s Environmental Justice Strategic Plan for 2016-2020, at 1 (Oct. 2016).

<sup>9</sup> Kimmy Yam and Sakshi Venkatraman, NBC News, Oct. 18, 2021, *Ida's Forgotten Victims: Nearly All Storm's Basement Deaths Were Asian Residents, Obscured by Climate Injustice* (last viewed July 21, 2023); Stephanie Lai, Vera Haller, Samira Sadeque and Marc Fisher,

78% of households in the communities where these people perished speak languages at home other than English or Spanish.<sup>10</sup> Yet WEAs from the National Weather Service warning of a “catastrophic” flash flood emergency were transmitted to New York City cell phone users only in English and Spanish.

In 2022, the New York Attorney General brought the disparate impact of Hurricane Ida on New York’s immigrant communities to the attention of both the National Weather Service and the Commission. The National Weather Service recently found that the agency lacked a “solution to address the communication challenges faced by people with Limited English Proficiency.”<sup>11</sup> The Service recommended that it develop a “strategy to better serve people with Limited English Proficiency.”<sup>12</sup> It further recommended that “the strategy should address multiple common languages spoken in the United States, and help the agency fulfill the intent of Executive Order 13166—Improving Access to Services for Persons With Limited English Proficiency.”<sup>13</sup>

We note that New York City and other local governments issue emergency text alerts in multiple languages. However, those are “opt-in” systems that require people to sign up for the alerts.<sup>14</sup> Many immigrant communities are not aware that these alerting services exist at all, let alone that the alerts are available in languages they can understand. Accordingly, the numbers of subscribers in languages other than English is believed to be minimal relative to LEP rates in these communities. Additionally, many local governments in our States currently do not provide opt-in emergency alerts. As a result, text alerts presently reach only a small fraction of mobile phone users compared with WEA alerts, which currently reach 75% of mobile phones in the country.<sup>15</sup>

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Washington Post, Sept. 4, 2021, *Life and Death Underground, N.Y. Immigrants Perish in Flooded Basements* (last viewed July 21, 2023).

<sup>10</sup> Katie Honan, The City, Sept. 3, 2021, *Mayor’s Map Showed Most of Ida’s Victims Lived Where Rainfall Was Riskiest* (last viewed July 21, 2023); U.S. Census Bureau, 2015-2019 American Community Survey 5-Year Estimates. Table S1601. Language Spoken at Home. <https://data.census.gov/table?q=language> (accessed July 21, 2023).

<sup>11</sup> National Weather Service, 2021 Hurricane Ida Service Assessment (April 2023), Finding 34 (p. 67), [https://www.weather.gov/media/publications/assessments/Hurricane\\_Ida\\_Service\\_Assessment.pdf](https://www.weather.gov/media/publications/assessments/Hurricane_Ida_Service_Assessment.pdf).

<sup>12</sup> *Id.* at Recommendation 34 (p. 67).

<sup>13</sup> *Id.*

<sup>14</sup> *E.g.*, NotifyNYC, [https://www.nyc.gov/assets/em/downloads/pdf/notify\\_nyc\\_messaging\\_toolkit.pdf](https://www.nyc.gov/assets/em/downloads/pdf/notify_nyc_messaging_toolkit.pdf); BuffAlert, <https://public.alertsense.com/SignUp/Default.aspx?regionId=1624>.

<sup>15</sup> 88 Fed. Reg. at 40,622.

For these reasons, the States and New York City have a strong interest in helping to facilitate the expansion of language access for WEAs.

## COMMENTS <sup>16</sup>

### 1. **Pre-installed Alert Templates Will Ensure that WEAs in Languages Other than English Are Accurate.**

The Commission proposes that wireless providers be required to enable “a machine translation application” on cell phones that will translate English-language WEAs to the user’s preferred language as well as providing the user the English version of the alert.<sup>17</sup> As an alternative, the Commission proposes that already-translated alert templates prepared by humans be pre-installed on cell phones and activated by incoming English-language alerts.<sup>18</sup> The States and New York City urge the Commission to require pre-installed templates because relying on software to translate WEAs without review by a human translator may cause material inaccuracies in critically important alerts. However, we encourage the Commission, the National Weather Service and other partners to continue evaluating the possibility of utilizing machine translation technology for WEAs<sup>19</sup> in the future if greater accuracy of the translations can be assured for all relevant languages.

Recent evidence shows that machine translation produces materially less accurate results when used to translate from English into several other languages. A joint UCLA and Memorial Sloan Kettering Cancer Center study published in 2021 evaluated the use of Google Translate for translating emergency room discharge instructions from English into Spanish, Chinese, Vietnamese, Tagalog, Korean, Armenian, and Farsi.<sup>20</sup> The study found that the accuracy rate was 94% for Spanish and 90% for Tagalog but only 55% for Armenian, 67.5% for Farsi, and

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<sup>16</sup> The Attorney General of Oregon joins only Section 2 of the Comments.

<sup>17</sup> 88 Fed. Reg. at 40,608.

<sup>18</sup> *Id.*

<sup>19</sup> Ayurella Horn-Muller, Axios, *How AI Could Help Translate Extreme Weather Alerts*, Oct. 21, 2022, <https://www.axios.com/2022/10/21/ai-translation-extreme-weather-alerts> (last accessed July 21, 2023).

<sup>20</sup> B. Taira, et al., *A Pragmatic Assessment of Google Translate for Emergency Department Instructions*, J. GEN. INTERN. MED. 36(11):3361–5 (March 2021), <https://link.springer.com/content/pdf/10.1007/s11606-021-06666-z.pdf>

77.5% for Vietnamese.<sup>21</sup> The study revealed some of the absurd translations generated by Google Translate. For example, when “Your Coumadin level was too high today. Do not take any more Coumadin until your doctor reviews the results” was translated into Chinese, “Coumadin” became “soybean.”<sup>22</sup> As another example, “over the counter Ibuprofen” was translated into Armenian as “anti-tank missile.”<sup>23</sup> The study authors concluded that because “accuracy rates of translations by Google Translate for Emergency discharge instructions vary by language,” Google Translate “is not ready for prime time use in the emergency department.”<sup>24</sup> In addition, languages that do not use roman characters require an extra layer of quality control to ensure that the translations are accurate.

As in emergency medicine, the stakes are very high when it comes to accuracy in emergency alerts that the Commission and its federal partners acknowledge can be “life-saving.” Inaccurately translated WEAs may seriously misinform people during emergencies, which could lead to unnecessary panic and tragic consequences. Ensuring that WEAs are reviewed by human translators would be consistent with a proposed regulation by the Department of Health and Human Services (“HHS”) that provides that, when health care providers rely on machine translation to translate documents in which “accuracy is essential,” “the translation must be reviewed by a qualified human translator.”<sup>25</sup> Similarly, the Department of Justice’s December 2021 guidelines on “Improving Access to Public Websites and Digital Services for Limited English Proficient (LEP) Persons” state that “if [an] entity utilizes machine translation software, the entity should have a human translator proofread all content containing vital information before posting it to ensure the accuracy of the translated information.”<sup>26</sup>

While we recognize that creating alert templates in multiple languages may place greater burdens on alerting agencies, those agencies may be able to utilize machine translation to develop templates that are then reviewed by human

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<sup>21</sup> *Id.* at p. 3363.

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

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

<sup>24</sup> *Id.* at p. 3364.

<sup>25</sup> Nondiscrimination in Health Programs and Activities, 87 Fed. Reg. 47824, 47916 (Aug. 4, 2022).

<sup>26</sup> U.S. Department of Justice, December 2021, Improving Access to Public Websites and Digital Services for Limited English Proficient (LEP) Persons,” p. 4, [https://www.lep.gov/sites/lep/files/media/document/2021-12/2021\\_12\\_07\\_Website\\_Language\\_Access\\_Guide\\_508.pdf](https://www.lep.gov/sites/lep/files/media/document/2021-12/2021_12_07_Website_Language_Access_Guide_508.pdf).

translators. We also note that templates for many extreme weather events already exist in over a dozen languages, which may expedite the process of preparing and installing alert templates. The National Weather Service has collaborated with New York City Emergency Management on sharing numerous templates with “call-to-action statements” that are used in New York City’s subscription-based NotifyNYC service.<sup>27</sup> This suggests that many relevant WEA templates for extreme weather warnings may already be available to the National Weather Service in the 13 languages (besides English) that NotifyNYC supports: Arabic, Bengali, traditional Chinese, French, Haitian Creole, Italian, Korean, Polish, Russian, Spanish, Urdu, and Yiddish.

We also encourage the National Weather Service and other alert originators to add all critical event-specific details—location, timing and expected duration—to pre-translated templates when sending WEAs. In addition and in response to the Commission’s request for comments on whether the English-language WEA should be displayed alongside the translated version,<sup>28</sup> we urge the Commission to impose that requirement. This will provide users with access to relevant event-specific details included in the English-language alert to the extent that the template-based alert they view in a different language does not include all such details.

In short, we urge the Commission to adopt the alternative approach of requiring wireless providers to install human-translated alert templates on cell phones that will then be activated when English-language WEAs are received.

**2. The Commission Should Expand Its Proposed List of 13 Languages and Periodically Evaluate the List Based on Census Bureau Data.**

The Commission proposes that WEAs be translated into Spanish, Chinese, Tagalog, Vietnamese, Arabic, French, Korean, Russian, Haitian Creole, German, Hindi, Portuguese, and Italian.<sup>29</sup> That list is a substantial expansion from the current status quo of translating WEAs only into Spanish, and we applaud the Commission for recognizing the need to reach more of the nation’s diverse linguistic groups. However, we urge the Commission to expand that list because it leaves out many large immigrant communities—in our jurisdictions and nationwide—as well as immigrant communities with high rates of LEP. We also recommend that the

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<sup>27</sup> National Weather Service, 2021 Hurricane Ida Service Assessment (April 2023), p. 67, [https://www.weather.gov/media/publications/assessments/Hurricane\\_Ida\\_Service\\_Assessment.pdf](https://www.weather.gov/media/publications/assessments/Hurricane_Ida_Service_Assessment.pdf).

<sup>28</sup> 88 Fed. Reg. at 40,608.

<sup>29</sup> *Id.*

Commission update the list periodically based on current American Community Survey data.

As a baseline, the Commission should require that WEAs be transmitted in all languages estimated to be spoken by at least 300,000 people in the U.S. over five years old—or 1% of the U.S. population over five<sup>30</sup>—based on the Census Bureau’s most recently available American Community Survey data at the time the FCC finalizes this rule. We anticipate that this approach will make WEAs accessible to speakers of over a dozen languages that are not on the Commission’s proposed list, including many languages for which reported LEP rates are relatively high.

That list should be further supplemented to include other languages whose speakers have high rates of LEP. Specifically, WEAs should be issued in any additional languages for which there are at least an estimated 25,000 individuals over the age of five years old nationwide (based on the most recent American Community Survey data) who have especially high rates of LEP, *i.e.*, those who report speaking English either “not at all” or “not well.” As HHS has explained in its proposed regulations regarding nondiscrimination in health programs, LEP creates additional obstacles for people whose first language is not English.<sup>31</sup> For example, older speakers of languages other than English may be more likely to have LEP and thus have greater difficulties accessing health care.<sup>32</sup> As a result, HHS’s proposed regulations require health care facilities to provide language assistance in “the 15 most common languages spoken by LEP individuals” in a state.<sup>33</sup> While a state-by-state approach to expanding language access may be less appropriate in the context of WEAs, the use of LEP rates to identify additional languages for which speakers need translation is instructive and applicable to WEAs.

Further, the Commission should, no less frequently than every three years, undertake notice and public comment rulemaking to add additional languages based on the most recently available American Community Survey data on spoken languages and LEP rates. Indeed, even the Commission’s current proposed list of 13 languages is based on 2019 American Community Survey data that does not

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<sup>30</sup> See <https://www.census.gov/content/dam/Census/library/publications/2022/acs/acs-50.pdf>.

<sup>31</sup> U.S. Department of Health and Human Services, *Nondiscrimination in Health Programs and Activities*, 87 Fed. Reg. 47,824, 47,833 (Aug. 4, 2022) (Notice of Proposed Rulemaking).

<sup>32</sup> See *id.*

<sup>33</sup> *Id.* at 47,854.



reflect U.S. immigration trends in recent years.<sup>34</sup> By periodically incorporating evolving data and public input on language and LEP trends into the WEA regulations, the Commission can continually make the WEA system more accessible to the country's newer immigrant communities.

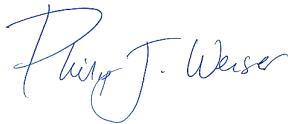
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We thank the Commission for advancing this critical initiative to make life-saving WEA cell phone alerts more accessible to millions of residents in our States, in New York City, and nationwide who have limited English proficiency, and for the Commission's consideration of these comments. We stand ready to continue engaging with the Commission and its partners on this profoundly important rulemaking.

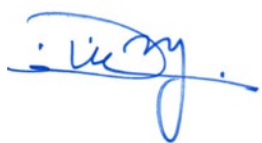
Sincerely,



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New York State Attorney General



Philip J. Weiser  
Attorney General  
State of Colorado



William Tong  
Attorney General  
State of Connecticut



Brian L. Schwalb  
Attorney General  
District of Columbia

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<sup>34</sup> See FCC, Further Notice of Proposed Rulemaking, (Adopted Apr. 20, 2023), <https://docs.fcc.gov/public/attachments/FCC-23-30A1.pdf>, para. 13 n.47, citing Sandy Dietrich and Erik Hernandez, U.S. Census Bureau, *Language Use in the United States*: 2019, pp. 8, 14-15 (2022), <https://www.census.gov/content/dam/Census/library/publications/2022/acs/acs-50.pdf>.



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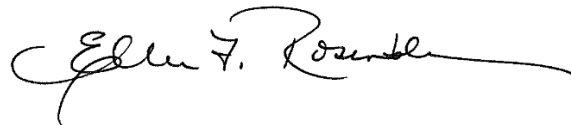
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