



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

September 12, 2023

Via E-Mail

Ken Graham, Director
National Weather Service
1325 East West Highway
Silver Spring, MD 20910

Dr. Richard W. Spinrad, Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue NW, Room 5128
Washington, DC 20230

**Re: December 23-27, 2022 Blizzard
Wireless Emergency Alerts for Extreme Winter Storms**

Dear Director Graham and Administrator Spinrad:

I urge the NOAA/National Weather Service (the Service) to resume warning the public of life-threatening winter storm conditions via Wireless Emergency Alerts (WEA) sent to all cell phones in affected areas, as the Service does for many other kinds of extreme weather events. Severe winter storms can be deadly and cause prolonged disruption, as illustrated by the historic December 23-27, 2022 blizzard that dramatically impacted communities and caused extensive loss of life in Western New York and across the country.

The Service's warnings about extreme weather on TV, radio, and social media are important but may not directly reach most people in harm's way, let alone grab their attention like WEA cell phone alerts can, with their unique audio signal, vibration pattern, and urgent safety guidance. WEA has been the primary national alerting method for years,¹ and is especially critical during widespread power outages, when the Service may lack other means of communicating with the public. It is thus crucial that the Service's public information tools include timely deployment of WEA alerts for life-threatening winter storms, with clear call-to-action messages to help individuals minimize risks to their safety and well-being.

As the Service knows, from December 23 to December 27, 2022, a "historic blizzard and lake effect snowstorm" pummeled Western New York.² According to an official summary by the Service's Buffalo office, the Buffalo-Niagara region experienced 37 consecutive hours of sustained blizzard conditions with winds exceeding 70 mph, several dozen feet of lake effect snow in some areas, and extreme cold for several days, with wind chills reaching as low as minus 30 degrees.³ Foremost among the "devastating impacts" across the region noted by the Service's Buffalo office⁴ are that 47 people died due to storm-related conditions in New York's

Director Graham and Administrator Spinrad

Page 2

September 12, 2023

Erie and Niagara counties; nearly half of them perished outside or in their vehicles.⁵ Storm-related deaths were also reported in at least a dozen other states.⁶ Other major impacts included “widespread power outages,” “impossible driving conditions” for days, cancellation of thousands of flights nationwide, and a shutdown of the Buffalo Niagara International Airport for five days.⁷

The Service’s Buffalo Weather Forecast Office had predicted on December 21, 2022 that a “Once in a Generation” storm would bring “damaging winds of 60 to 70 mph,” “prolonged . . . paralyzing heavy lake effect snow,” and a “rapid flash freeze.”⁸ Mainstream media reported that, based on the Service’s forecasts, these storm systems would impact areas in 37 states where up to 90 million people live.⁹

And yet, according to public reporting, the Service did not transmit WEA cell phone alerts about the storm’s grave hazards to residents in Western New York, either before or during the December 23-27, 2022 storm.¹⁰ Had the Service sent one or more WEA alerts on December 21 or December 22 to the cell phones of all people in the path of the dangerous blizzard, such alerts likely would have prompted more people to safely take preparatory measures in the days *ahead of* the storm, such as stocking up on groceries, medications, and other essential items, or transporting elderly/ailing family members or friends to safer spaces. And once the Service confirmed the severity of the blizzard on December 23 and local authorities had announced driving bans, additional WEA alerts could have provided call-to-action messages urging all to remain indoors and stay off the roads to avoid blocking emergency crews and ambulances.

When WEA was first deployed in 2012, the Service initially sent WEA alerts for major blizzards. In November 2013, however, the Service removed blizzards and ice storms from the Service’s warning types that activate WEA alerts, apparently based on public feedback that these warnings offer “too much advance notice to warrant WEA activation.”¹¹ I urge the Service to reconsider this policy ahead of the coming 2023-2024 winter season, and to resume sending WEA alerts about winter storms that the Service predicts to be life-threatening and destructive.¹² I also ask the Service to conduct a Service Assessment of the December 23-27, 2022 storm, with a robust evaluation of the Service’s public information efforts, including the impact that timely cell phone alerts from the Service through WEA might have had in Western New York and other severely impacted parts of the country.¹³

Currently, not all of the Service’s WEA warning types are for immediate or near-immediate threats only. For example, the Service’s “Hurricane/Typhoon Warning” and “Storm Surge Warning” activate WEA messages that alert people to hazardous conditions up to 36 hours before they begin.¹⁴ The “Hurricane/Typhoon”

Director Graham and Administrator Spinrad

Page 3

September 12, 2023

Warning instructs people receiving the WEA message to “[h]ave food, water, cash, fuel, and medications for 3+ days.”¹⁵

Further, the Service recently instituted nationwide WEA activation for “high-impact snow squall events” in order to warn drivers about “bursts of intense snow lasting between 30-60 minutes that can cause hazardous travel conditions, such as whiteout visibility and icy roads.”¹⁶ This reflects the Service’s recognition that certain winter weather events create threats to public safety that warrant the potentially life-saving intervention that WEA warnings can provide.

Large municipalities like the City of Buffalo may communicate emergency information about weather hazards directly to residents via text messages. These systems play a valuable role in public communications about weather hazards. However, these are opt-in systems and, as such, they will not reach potentially affected persons – including the most vulnerable (such as the elderly) – who are not subscribed.¹⁷ In contrast, the vast majority of households have mobile devices that are already equipped to receive attention-grabbing WEA alerts in English or Spanish, and potentially many more languages in the future based on a recent Federal Communications Commission proposal.¹⁸ I thus urge the Service to create a category of severe winter storms¹⁹ for which it will timely activate WEA alerts that include clear call-to-action guidance when appropriate. Opt-in alerting systems can then augment those WEAs from the Service to local subscribers.

It is also essential for the Service to closely coordinate its WEA alerts with local emergency management authorities, and to develop better strategies for reaching vulnerable communities and persons with Limited English Proficiency, as a recent Service Assessment (on 2021’s Hurricane Ida) formally recommended.²⁰ A related recommendation in that Service Assessment was that the Service’s local offices should be encouraged to work more closely with local leaders of civic organizations and houses of worship, who can serve as “force multipliers to reach broader communities.”²¹ We strongly agree with these recommendations,²² and urge the Service to implement them.

We are grateful for the Service’s and NOAA’s past engagement with me and my office on expanding the accessibility of public alerts about increasingly severe weather events. My office stands ready to support you and your federal, state and local partners in your critical work to help prepare and safeguard the public during the most dangerous winter storms.

Director Graham and Administrator Spinrad

Page 4

September 12, 2023

Sincerely,



Letitia James

New York State Attorney General

cc: Michelle M. Mainelli, Acting Deputy Director, National Weather Service
Bob Hamilton, Lead Meteorologist, National Weather Service Buffalo
Deanne Criswell, FEMA Administrator
Jessica Rosenworcel, Chairwoman, Federal Communications Commission
Charles Schumer, U.S. Senator
Kirsten Gillibrand, U.S. Senator
Kathy Hochul, Governor of the State of New York
Mark C. Poloncarz, County Executive, Erie County, New York
Richard E. Updegrove, County Manager, Niagara County, New York
Byron Brown, Mayor, City of Buffalo, New York

¹ GAO, 20-294, February 2020, <https://www.gao.gov/assets/gao-20-294.pdf>

² <https://www.weather.gov/buf/lesEventArchive?season=2022-2023&event=D>

³ *Id.*

⁴ *Id.*

⁵ https://buffalonews.com/news/local/what-we-know-about-the-people-who-died-in-buffalo-niagaras-blizzard/article_98a32b72-87aa-11ed-985e-4beeb22a08f1.html#tncms-source=login

⁶ https://en.wikipedia.org/wiki/December_2022_North_American_winter_storm

⁷ <https://www.weather.gov/buf/lesEventArchive?season=2022-2023&event=D>;
https://en.wikipedia.org/wiki/December_2022_North_American_winter_storm

⁸ <https://mesonet.agron.iastate.edu/wx/afos/p.php?pil=AFDBUF&e=202212211132>

⁹ <https://www.cnn.com/2022/12/21/weather/christmas-arctic-winter-storm-wednesday-wxn/index.html>

¹⁰ https://buffalonews.com/news/local/a-cascading-failure-blizzard-that-left-tens-of-thousands-without-heat-hit-some-in-buffalo/article_3582bf10-886a-11ed-8231-a7c9d923d62d.html;
<https://news.yahoo.com/buffalo-catastrophic-storm-response-failed-070522046.html>

¹¹ <https://www.weather.gov/media/publications/Aware/13nov-aware.pdf>

¹² For example, the Service's Buffalo weather forecast office has employed a five-point "Lake Flake Scale" for over two decades, and in the past has given memorable names to serious winter storms to help the public take note of major storms. See <https://www.washingtonpost.com/archive/lifestyle/2003/02/21/why-were-not-on-a-first-name-basis-with-snowstorms/dc80b39f-29c4-4a2e-a94e-664e485845b2/>. The December 23-27, 2022 blizzard was certainly a "5 Flake" event, but it was not the only one of the 2022-2023 winter season in Western New York. A November 17-20, 2022 blizzard in the Buffalo area, during which snowfall accumulations exceeded six feet off Lake Erie, was also a "5 Flake" event. See <https://www.weather.gov/buf/lesEventArchive?season=2022-2023&event=A>.

¹³ The Service conducts such assessments "to evaluate its performance after significant hydrometeorological, oceanographic, or geological events," including those that involve "multiple

fatalities,” in order for the agency “to continuously improve its services to the nation.” See <https://www.weather.gov/publications/assessments>. We note that the Service rarely conducts Service Assessments for devastating blizzard events. For example, the Service apparently did not perform a Service Assessment for a November 17-19, 2014 lake effect blizzard in the Buffalo, New York area that was associated with 14 deaths according to the Service’s Buffalo office. See <https://www.weather.gov/buf/lesEventArchive?season=2014-2015&event=B>.

¹⁴ <https://www.weather.gov/wrn/wea360#:~:text=Wireless%20Emergency%20Alerts%20%28360%20characters%29%201%20English%20Short.lifethreatening%20winds%20til%2011%3A35PM%20EDT.%20...%20More%20items>

¹⁵ *Id.*

¹⁶ https://www.weather.gov/news/220411_snow-squall

¹⁷ A June 2023 New York University report commissioned by the City of Buffalo, “Lessons Learned from the Buffalo Blizzard,” states that 16% of residents are enrolled in the City’s text messaging alert system, known as “BUFFALERT.” See page 13 of https://wagner.nyu.edu/files/faculty/publications/Buffalo%20Blizzard%20Report%20-%20June2023_1.pdf.

¹⁸ Federal Communications Commission, *Wireless Emergency Alerts*, 88 Fed. Reg. 40,606 (June 21, 2023) (Proposed Rule) (proposing expansion of WEAs to 12 languages besides English and Spanish); Comments of New York State Attorney General et al. on FCC’s Further Notice of Proposed Rulemaking regarding Wireless Emergency Alerts, *available at* <https://www.fcc.gov/ecfs/document/10721501522696/1>.

¹⁹ We are not requesting that the Service activate WEA messages for *all* snowstorms, but rather for the most “destructive” category of winter storms. Doing so would be consistent with the Service’s decision in August 2021 to add a “destructive” damage threat category to its Severe Thunderstorm Warnings, as the only threat category that triggers WEA activation. The Service recognized that the public should be alerted via WEA messages sent to cell phones for the roughly 10% of thunderstorms each year that bring life-threatening and destructive conditions (at least 2.75 inch diameter (baseball-sized) hail and/or 80 mile-per-hour thunderstorm winds). <https://www.weather.gov/news/072221-svr-wea>. The Service should devise appropriate criteria for the most destructive winter storms that would trigger WEA alerts to be sent by the Service.

²⁰ See Recommendations 33a and 34 in “April 2023 Service Assessment for 2021 Hurricane Ida,” [https://www.weather.gov/media/publications/assessments/Hurricane Ida Service Assessment.pdf](https://www.weather.gov/media/publications/assessments/Hurricane%20Ida%20Service%20Assessment.pdf).

²¹ See *id.* Recommendation 35.

²² As Dr. Kim Klockow-McClain, a social scientist at the Service, was recently quoted in an article about weather warnings, “good warning systems involve ‘a set of organizations of people who are all coming together to alert each other that something is going on.’” <https://www.nytimes.com/2023/06/23/us/severe-weather-warning-safety.html>