



# PUBLIC NOTICE

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## REMINDER REGARDING OBLIGATIONS TO MAKE TELEVISED EMERGENCY INFORMATION ACCESSIBLE TO VIEWERS WHO ARE DEAF, HARD OF HEARING, BLIND, OR VISUALLY IMPAIRED AND RECOMMENDATIONS TO IMPROVE ACCESS FOR VIEWERS WITH COGNITIVE DISABILITIES

The Federal Communications Commission (FCC or Commission) issues this Public Notice to remind video programming distributors (VPDs) – including broadcasters, cable operators, satellite television services, and “any other distributor of video programming [for example, over fiber] for residential reception that delivers such programming directly to the home”<sup>1</sup> – of their obligation to make televised emergency information accessible to persons who are blind, visually impaired, deaf, or hard of hearing, in order to comply with section 79.2 of the Commission’s rules.<sup>2</sup> This Public Notice also provides information for consumers on how to file complaints for noncompliance with this obligation.<sup>3</sup> Finally, this Public Notice offers recommendations to video programming providers and distributors on how they can make their emergency information more accessible to television viewers who have cognitive disabilities. While not required by our rules, we recommend measures that can make such notifications more comprehensible for and usable by this population.

*Background.* Under section 79.2, emergency information is defined as “[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency.”<sup>4</sup> Examples include “tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.”<sup>5</sup> Critical details include, but are not limited to “details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one’s home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.”<sup>6</sup>

Under section 79.2 of the Commission’s rules, all VPDs must make the emergency information that they show on television accessible; unlike the closed captioning obligations contained in section 79.1

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<sup>1</sup> 47 CFR § 79.1(a)(2) (defining “video programming distributor”).

<sup>2</sup> See 47 CFR § 79.2. Because of the importance of this issue, we have issued several similar Public Notices in the past. Recent notices can be found at: Public Notice, 28 FCC Rcd 13865 (2013); Public Notice, 29 FCC Rcd 10596 (2014) (§79.2 *Reminder 2014 Public Notice*); Public Notice, 30 FCC Rcd 13615 (2015).

<sup>3</sup> See 47 CFR § 79.2(c).

<sup>4</sup> See 47 CFR § 79.2(a)(2).

<sup>5</sup> *Id.*

<sup>6</sup> Note to 47 C.F.R. § 79.2(a)(2).

of the rules,<sup>7</sup> there are no exemptions to the emergency information requirement. In addition, each local broadcast licensee is responsible for complying with section 79.2 regardless of the technology used to deliver its signal to consumers.

We note that the need to comply with section 79.2 sometimes extends to regions outside the immediate geographic areas where the emergency occurs. For example, critical details about an emergency and how to respond, such as relocation information, may need to reach individuals outside an area immediately affected by an emergency, but nevertheless would fall within the rule's mandate. This is especially likely to happen when a region is affected by a large-scale disaster. For example, the devastating flooding that occurred in Louisiana in August 2016, characterized as "one of the worst natural disasters in recent years," compelled 122,000 individuals and households to seek emergency assistance and receive temporary relocations in adjoining regions,<sup>8</sup> as did flooding in West Virginia, where 1,200 homes were destroyed and 23 lives claimed by flooding in June 2016.<sup>9</sup> In addition, we note that there may be times when the airing of emergency information pertaining to a matter of national importance will also be of local concern, and therefore should be made accessible.

*Individuals who are Blind or Visually Impaired.* In the case of persons who are blind or visually impaired, Commission rules require that emergency information that is provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming be made accessible by aurally describing the emergency information in the main audio portion of the programming.<sup>10</sup> When emergency information is conveyed visually during programming other than newscasts (i.e., the programmer provides the emergency information through "crawling" or "scrolling" text during regular programming), the information must be accompanied by an aural tone and immediately thereafter be conveyed aurally through the use of a secondary audio stream.<sup>11</sup> The aural tone is intended to alert consumers who are blind or visually impaired to the presence of an emergency situation, and give them an opportunity to switch to the secondary audio stream.<sup>12</sup> The information imparted over the secondary audio channel must be conveyed in full at least twice.<sup>13</sup>

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<sup>7</sup> 47 CFR § 79.1.

<sup>8</sup> See White House Website, Live Updates: What You Need to Know about Flooding in Louisiana, <https://www.whitehouse.gov/blog/2016/08/17/live-updates-what-you-need-know-about-flooding-louisiana> (last visited Sept. 8, 2016).

<sup>9</sup> See CNN Website, West Virginia Floods Devastate 1,200 Homes, Many Lives, <http://www.cnn.com/2016/06/28/us/west-virginia-flooding-weather/> (last visited Sept. 8, 2016).

<sup>10</sup> 47 CFR § 79.2(b)(2)(i).

<sup>11</sup> See 47 CFR § 79.2(b)(2)(ii). See *Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871 (2013) (*Accessible Emergency Information Order*). A secondary audio stream is an audio channel, other than the main program audio channel, that is typically used for foreign language audio and video description. Video description, which is also referred to as audio description, is defined as "[t]he insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue." 47 CFR § 79.3(a)(3).

<sup>12</sup> *Accessible Emergency Information Order*, 28 FCC Rcd at 4881, para. 12, 4892, para. 25.

<sup>13</sup> 47 CFR § 79.2(b)(2)(ii); *Accessible Emergency Information Order*, 28 FCC Rcd at 4881, para. 12. Note that on May 26, 2015, the Commission's Media Bureau granted waivers of these emergency information rules: (1) for certain hybrid (digital/analog) cable systems, conditioned on providing free equipment to analog customers who are blind or visually impaired to enable access to the digital secondary audio stream; (2) for certain analog-only cable

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Commission rules also require that all apparatus designed to receive, play back or record video programming simultaneously with sound that are manufactured or imported for use in the United States be capable of delivering such emergency information in an accessible manner to individuals who are blind or visually impaired.<sup>14</sup> Further, by December 20, 2016, apparatus manufacturers must provide a mechanism that is simple and easy to use, such as one that is reasonably comparable to a button, key, or icon, for activating the secondary audio stream to access audible emergency information.<sup>15</sup>

In addition, starting no later than July 10, 2017, multichannel video programming distributors (MVPDs) must pass through the secondary audio stream containing audible emergency information when it is provided on linear programming accessed on second screen devices (e.g., tablets, smartphones, laptops and similar devices) over their networks as part of their MVPD services.<sup>16</sup> Linear programming is generally video programming that is prescheduled by the video programming provider.

*Individuals who are Deaf or Hard of Hearing.* Emergency information also must be provided in a manner that is accessible to persons who are deaf or hard of hearing. Commission rules require that emergency information provided in the audio portion of the programming be made accessible using closed captioning or other methods of visual presentation, including open captioning, crawls or scrolls that appear on the screen.<sup>17</sup> Emergency information provided by these means may not block any closed captioning, and closed captioning may not block any emergency information provided by crawls, scrolls, or other visual means.<sup>18</sup> The pass through obligation, generally requiring VPDs to ensure that viewers receive closed captions intact under section 79.1, also applies to emergency information encompassed by section 79.2.<sup>19</sup>

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systems until June 12, 2018; (3) for broadcasters until November 30, 2015; (4) for visual but non-textual emergency information, such as maps or other graphic displays, for a period of 18 months; and (5) for school closing information, while the Commission reconsiders this requirement. *See Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Memorandum Opinion and Order, 30 FCC Rcd 5012, para. 1, 5021, para. 16 (MB 2015). Recently, the American Council of the Blind (ACB), the American Foundation for the Blind (AFB), and the National Association of Broadcasters (NAB) jointly sought an 18 month extension of the waiver requiring broadcasters to aurally describe visual, non-textual emergency information (e.g., maps). *See ACB/AFB/NAB Joint Petition for Extension of Limited Waiver*, MB Dkt. 12-107 (filed Sept. 2, 2016).

<sup>14</sup> *Accessible Emergency Information Order*, 28 FCC Rcd at 4913-16, paras. 60-62. *See also* 47 U.S.C. § 303(u); 47 CFR §§ 79.105, 79.106.

<sup>15</sup> *See Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 5186, 5198-206, paras. 22-36 (2015) (*Accessible Emergency Information Second Report and Order*); *see also* 47 CFR § 79.105(d).

<sup>16</sup> 47 CFR § 79.2(b)(6). *See Accessible Emergency Information Second Report and Order*, 30 FCC Rcd at 5191-95, paras. 9-15, 5197-98, paras. 19-21 (2015).

<sup>17</sup> 47 CFR § 79.2(b)(1). For example, the Commission's rules permit the use of "[o]pen captioning or subtitles in the language of the target audience" in lieu of closed captioning. 47 CFR § 79.1(e)(2).

<sup>18</sup> *See* 47 CFR § 79.2(b)(4).

<sup>19</sup> *See* 47 CFR § 79.1(c). All video programming distributors are required to pass through any captions that they receive from the originating source and are responsible for maintaining their equipment in working order to ensure the accurate transmission of the closed captions. *See Closed Captioning and Video Description of Video*

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Distributors that are not permitted by Commission rules to count captions created using the electronic newsroom technique (ENT)<sup>20</sup> are required to provide closed captions on all new non-exempt programming, including breaking news and emergency alerts.<sup>21</sup> We recognize that emergency information is the type of information that is typically not available in advance, and that it may be difficult for some stations to obtain closed captioning services on short notice. Nevertheless, we emphasize that during the period in which a station may be making arrangements to obtain closed captioning services, section 79.2 requires emergency information provided by that station to be made accessible by some other visual presentation method, in a manner that ensures the same access to emergency information for persons who are deaf or hard of hearing as for any other viewer.<sup>22</sup>

Similarly, entities that are permitted to and are using captions created with ENT for their live programming (for determining compliance with section 79.1)<sup>23</sup> are reminded that if the ENT method does not automatically caption non-scripted news, the provider must either caption or make the emergency information accessible by some other form of visual presentation as required by section 79.2.<sup>24</sup> Lastly, a distributor in a market that is permitted to use ENT, but chooses to use real-time captions rather than ENT for its live programming, must provide closed captions on emergency information contained in that programming.

*Individuals with Cognitive Disabilities.* According to one estimate, there are nearly thirty million Americans with cognitive disabilities, including individuals who have limitations or challenges in understanding or processing information, problem solving, visual or verbal comprehension, reading, attention, memory, or responding.<sup>25</sup> Such individuals might have, for example, intellectual disabilities, pervasive developmental disabilities such as autism, acquired or traumatic brain injuries,

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*Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, Second Report and Order, 15 FCC Rcd 6615, 6622, para. 13, n.48 (2000) (*2000 Order*).

<sup>20</sup> See 47 CFR § 79.1(e)(3). The Commission's rules permit live programming to be captioned using the electronic newsroom technique, a technique that uses teleprompters to create closed captions, with the exception of live programming exhibited by the major national broadcast television networks (*i.e.*, ABC, CBS, Fox and NBC), affiliates of these networks in the top 25 television markets, and national nonbroadcast networks serving at least 50% of all homes subscribing to multichannel video programming services.

<sup>21</sup> *Id.* See also *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221 (2014) (*Closed Captioning Quality Order*) (adopting captioning quality standards – accuracy, synchronicity, program completeness, and placement – and technical compliance rules to ensure that video programming is fully accessible to individuals who are deaf or hard of hearing). These quality standards apply to captioned televised emergency information provided under 47 C.F.R. §79.2. See §79.2 *Reminder 2014 Public Notice*, 29 FCC Rcd at 1059.

<sup>22</sup> See 47 CFR § 79.2(b)(1).

<sup>23</sup> See 47 CFR § 79.1(e)(3).

<sup>24</sup> See *2000 Order*, 15 FCC Rcd at 6623-24, para. 16.

<sup>25</sup> See Coleman Institute for Cognitive Disabilities, University of Colorado, <http://www.colemaninstitute.org/8-about-us> (last visited Sept. 19, 2016).

neurodegenerative diseases such as Alzheimer’s disease, or learning disabilities.<sup>26</sup> For these individuals, including senior citizens with decreasing cognition or memory, it is useful to make televised emergency information accessible through easy-to understand language and concrete concepts that clearly and unmistakably convey information and guidance on the existence of an emergency, ways to effectively take precautions, and ways to respond safely and effectively.

To make emergency information more accessible to and usable by television viewers with cognitive disabilities, we do not require, but encourage video programming providers and distributors to:

- provide content in plain and understandable English, avoiding, where possible, abbreviations, idioms, technical vocabulary, complicated and lengthy sentences, and figurative language;<sup>27</sup>
- include easy-to understand instructions when alerting people to take certain precautions to address or respond to an emergency, e.g., directing them to “shelter-in-place,” or “take cover immediately”;
- provide content through multiple means, such as by providing aural descriptions of maps, charts, and other pictorial information; and
- avoid scrolling information unrelated to the emergency during the broadcast of emergency information.

We do not require, but encourage video programming providers and distributors to share the above recommendations with service personnel who develop emergency notifications so they can become more aware of ways to make such notifications more effective for people with cognitive disabilities.

## **Consumer Complaints and Enforcement**

The Commission will continue to monitor closely complaints alleging violations of section 79.2, and will review for possible enforcement action.

If you are a consumer who has a complaint regarding the lack of emergency information being presented in an accessible format, you may contact the VPD directly for quick resolution of the problem, or you may file a complaint with the FCC. If you do not have contact information for the VPD, you can locate VPD contact information by searching the VPD Registry located on the FCC’s webpage at: <http://esupport.fcc.gov/vpd-search/search.action>.

If you decide to complain directly to the FCC, your complaint should include:

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<sup>26</sup> See, e.g., Disabled World, Cognitive Disability: Information on Intellectual Disabilities, <http://www.disabled-world.com/disability/types/cognitive> (last visited Sept. 18, 2016). See also Center for Persons with Disabilities, Utah State University, *WebAIM - Web Accessibility in Mind*, 2016, <http://webaim.org/articles/cognitive/> (last visited Sept. 1, 2016) (suggesting that cognitive disability be defined as having “greater difficulty with one or more types of mental tasks than the average person.”)

<sup>27</sup> Further information on the use of plain language can be found in guidance implementing the requirements of the [Plain Writing Act of 2010, H.R. 946, Public Law 111-274](#), including the Federal Plain Language Guidelines (March 2011), available at <http://www.plainlanguage.gov/howto/guidelines/bigdoc/fullbigdoc.pdf>. In addition, the World Wide Web Consortium (W3C) has developed guidance on writing specifically for people with cognitive disabilities. See W3C, *Easy-to-Read and Plain Language: Defining Criteria and Refining Rules*, <https://www.w3.org/WAI/RD/2012/easy-to-read/paper11/> (last visited Sept. 18, 2016).

- The name of the VPD (*e.g.*, broadcast station, cable company, satellite TV provider) against whom the complaint is alleged;
- The date and time of the transmission of emergency information that was not accessible; and
- The type of emergency.

You can file your complaint with the FCC online at: [www.fcc.gov/complaints](http://www.fcc.gov/complaints), which is the preferred form in order to ensure that all the necessary information is received from you. You also may contact the FCC by letter, facsimile transmission, telephone (voice/videophone/TRS/TTY), direct video calling, e-mail, audio-cassette recording, Braille, or any other method that would best accommodate your disability. Send your complaint to:

Federal Communications Commission  
Consumer and Governmental Affairs Bureau  
445 12th Street, SW  
Washington, DC 20554  
Phone: 1-888-225-5322 (voice); 1-844-432-2275 (videophone); 1-888-835-5322 (TTY)  
E-mail: [fccinfo@fcc.gov](mailto:fccinfo@fcc.gov)  
Fax: 866-418-0232

Fact sheets summarizing the closed captioning and access to emergency information rules are available at the FCC's Web site at <http://www.fcc.gov/guides/closed-captioning>, and <http://www.fcc.gov/guides/emergency-video-programming-accessibility-persons-hearing-and-visual-disabilities>.

To request this *Public Notice* or any other materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

Consumer and Governmental Affairs Bureau Contact: Suzy Rosen Singleton, Chief, Disability Rights Office, 202-510-9446 (voice/videophone), e-mail [Suzanne.Singleton@fcc.gov](mailto:Suzanne.Singleton@fcc.gov); or Elaine Gardner, Attorney Advisor, Disability Rights Office, 202-410-0581, e-mail [Elaine.Gardner@fcc.gov](mailto:Elaine.Gardner@fcc.gov).

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