



PUBLIC NOTICE

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REMINDER OF VIDEO PROGRAMMING DISTRIBUTORS' OBLIGATIONS TO MAKE TELEVISED EMERGENCY INFORMATION ACCESSIBLE FOR PEOPLE WITH DISABILITIES; COMPLIANCE DEADLINE ANNOUNCED FOR NEW PROVISIONS

By this Notice, the Federal Communications Commission (FCC or Commission) announces that, beginning on November 30, 2015, in accordance with section 79.2(b)(2)(ii) of the Commission's rules,¹ video programming distributors (VPDs)² must ensure that their televised emergency information is conveyed aurally through the use of a secondary audio stream,³ when such information is conveyed visually during programming other than newscasts.

Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) directed the Commission to promulgate rules requiring video programming providers, video programming distributors, and program owners to convey emergency information in a manner accessible

¹ 47 C.F.R. § 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*, MB Docket Nos. 12-107 & 11-43, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871 (2013) (*Accessible Emergency Information Order*). Compliance with the Commission's new rules was required beginning on May 26, 2015. 47 C.F.R. §§ 79.2(b)(2)(ii), 79.105(a), 79.106(a). However, on May 26, 2015, the Commission's Media Bureau granted waivers of the emergency information rule: (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 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*, MB Docket Nos. 12-107 & 11-43, Memorandum Opinion and Order, 30 FCC Rcd 5012 ¶ 1, 5021 ¶ 16 (MB 2015).

² *See* 47 C.F.R. § 79.1(a)(11) (defining "video programming distributor").

³ 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 C.F.R. § 79.3(a)(3).

to individuals who are blind or visually impaired.⁴ On April 9, 2013, the Commission released the *Accessible Emergency Information Order* implementing this mandate.⁵

Specifically, when emergency information⁶ is being provided in the video portion of programming that is not a regularly scheduled newscast or a newscast that interrupts regular programming (e.g., the programmer provides the emergency information through “crawling” or “scrolling” text during regular programming), the information must be accompanied by an aural tone and provided aurally on the secondary audio stream.⁷ The aural tone will 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.⁸ The information imparted over the secondary audio channel must be preceded by the aural tone, and must be conveyed in full at least twice.⁹ VPDs must also ensure that their video programming apparatus be capable of delivering such emergency information in an accessible manner to individuals who are blind or visually impaired.¹⁰

In addition, on May 28, 2015, the Commission released a Report and Order requiring multichannel video programming distributors (MVPDs) to 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 the MVPD’s network as part of their MVPD services.¹¹ Linear programming is generally video programming that is prescheduled by the video programming provider. This requirement must be implemented no later than July 10, 2017.¹² In this order, the Commission also required apparatus manufacturers to provide a mechanism that

⁴ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.). *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

⁵ *Accessible Emergency Information Order*, 28 FCC Rcd at 4872 ¶ 1; *see also* 47 U.S.C. § 613(g)(2).

⁶ The CVAA directed the Commission to apply the definition of “emergency information” found in the Commission’s rules. 47 U.S.C. § 613(g)(1). “Emergency information” is defined in these rules 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. Examples of the types of emergencies covered 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.” 47 C.F.R. § 79.2(a)(2). “Critical details include, but are not limited to, specific 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.” Note to 47 C.F.R. § 79.2(a)(2).

⁷ *See* 47 C.F.R. § 79.2(b)(2)(ii).

⁸ *Accessible Emergency Information Order*, 28 FCC Rcd at 4881 ¶ 12, 4892 ¶ 25.

⁹ 47 C.F.R. § 79.2(b)(2)(ii); *Accessible Emergency Information Order*, 28 FCC Rcd at 4881 ¶ 12.

¹⁰ *Accessible Emergency Information Order*, 28 FCC Rcd at 4913-16 ¶¶ 60-62. *See also* 47 U.S.C. § 303(u); 47 C.F.R. §§ 79.105, 79.106.

¹¹ *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*, MB Docket No. 12-107, Second Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 5186, 5191-95 ¶¶ 9-15 (2015) (*Accessible Emergency Information Second Report and Order*); *see also* 47 C.F.R. § 79.2(b)(6).

¹² 47 C.F.R. § 79.2(b)(6); *Accessible Emergency Information Second Report and Order*, 30 FCC Rcd at 5197-98 ¶¶ 19-21.

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 by December 20, 2016.¹³

We also remind VPDs of their existing obligation to ensure that emergency information 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.¹⁴ 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.¹⁵ The “pass through” obligation, generally requiring VPDs to ensure that viewers receive closed captions intact under section 79.1,¹⁶ also applies to emergency information encompassed by section 79.2.¹⁷

As we have previously noted,¹⁸ the need to comply with section 79.2 is not always limited to the immediate geographic areas affected by the emergency because critical details about the emergency and how to respond – for example, relocation information – may need to reach individuals outside that immediate geographic area, and therefore fall within the rule’s mandate.¹⁹ Accordingly, compliance with section 79.2 may include providing information to areas outlying an area immediately impacted by a large-scale disaster, such as that which occurred in February 2014, when a severe winter storm in the Midwest and eastern parts of the United States caused electrical outages for nearly 1 million customers across a wide region. In addition, we note that there are 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. Various emergencies over the past year, ranging from the January 2015 North American blizzard (unofficially known as “Winter Storm Juno”), the October 2015 North American Storm Complex, the July 2015 Alaskan earthquakes, wildfires in the western states, and a spate of destructive tornadoes in the Midwest underscore the vital nature of compliance with this rule.

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

¹³ *Accessible Emergency Information Second Report and Order*, 30 FCC Rcd at 5198-206 ¶¶ 22-36; *see also* 47 C.F.R. § 79.105(d).

¹⁴ *See* 47 C.F.R. § 79.2(b)(1); *Clarification of Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons With Hearing Disabilities Using Closed Captioning*, Public Notice, 21 FCC Rcd 15084, 15086 (2006) (*December 2006 PN*).

¹⁵ *See* 47 C.F.R. § 79.2(b)(4).

¹⁶ 47 C.F.R. § 79.1(c).

¹⁷ *See Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, Second Report and Order, 15 FCC Rcd 6615, 6622, ¶ 13, n.48 (2000) (*2000 Order*). VPDs 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. *Id.*

¹⁸ *See e.g., Reminder Regarding Video Programming Distributors’ Obligation to Make Emergency Information Accessible to Persons Who are Deaf, Hard of Hearing, Blind, or Visually Impaired*, Public Notice, 29 FCC Rcd 15096 (2014).

¹⁹ *See* 47 C.F.R. § 79.2 Note to paragraph (a)(2): “Critical details include, but are not limited to, specific 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.”

<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 or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

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