

the calendar quarter in which the alleged violation has occurred.

(3) The video programming distributor must respond in writing to a complaint no later than 45 days after the end of the calendar quarter in which the violation is alleged to have occurred or 45 days after receipt of a written complaint, whichever is later.

(4) If a video programming distributor fails to respond to a complaint or a dispute remains following the initial complaint resolution procedures, a complaint may be filed with the Commission within 30 days after the time allotted for the video programming distributor to respond has ended. An original and two (2) copies of the complaint, and all subsequent pleadings shall be filed in accordance with § 0.401(a) of this chapter. The complaint shall include evidence that demonstrates the alleged violation of the closed captioning requirements of this section and shall certify that a copy of the complaint and the supporting evidence was first directed to the video programming distributor. A copy of the complaint and any supporting documentation must be served on the video programming distributor.

(5) The video programming distributor shall have 15 days to respond to the complaint. In response to a complaint, a video programming distributor is obligated to provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the Commission's rules. The response to the complaint shall be served on the complainant.

(6) Certifications from programming suppliers, including programming producers, programming owners, networks, syndicators and other distributors, may be relied on to demonstrate compliance. Distributors will not be held responsible for situations where a program source falsely certifies that programming delivered to the distributor meets our captioning requirements if the distributor is unaware that the certification is false. Video programming providers may rely on the accuracy of certifications. Appropriate action may be taken with respect to deliberate falsifications.

(7) The Commission will review the complaint, including all supporting evidence, and determine whether a violation has occurred. The Commission shall, as needed, request additional information from the video programming provider.

(8) If the Commission finds that a violation has occurred, penalties may be imposed, including a requirement that the video programming distributor deliver video programming containing closed captioning in an amount exceeding that specified in paragraph (b) of this section in a future time period.

(h) *Private rights of action prohibited.* Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

[62 FR 48493, Sept. 16, 1997, as amended at 63 FR 55962, Oct. 20, 1998; 64 FR 33424, June 23, 1999; 65 FR 58477, Sept. 29, 2000; 69 FR 72047, Dec. 10, 2004]

§ 79.2 Accessibility of programming providing emergency information.

(a) *Definitions.* (1) For purposes of this section, the definitions in §§ 79.1 and 79.3 apply.

(2) *Emergency information.* Information, 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.

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

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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.

(b) Requirements for accessibility of programming providing emergency information.

(1) Video programming distributors must make emergency information, as defined in paragraph (a) of this section, accessible as follows:

(i) Emergency information that is provided in the audio portion of the programming must be made accessible to persons with hearing disabilities by using a method of closed captioning or by using a method of visual presentation, as described in § 79.1 of this part;

(ii) Emergency information that is provided in the video portion of a regularly scheduled newscast, or newscast that interrupts regular programming, must be made accessible to persons with visual disabilities; and

(iii) Emergency information that is provided in the video portion of programming that is not a regularly scheduled newscast, or a newscast that interrupts regular programming, must be accompanied with an aural tone.

(2) This rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring.

(3) Video programming distributors must ensure that:

(i) Emergency information should not block any closed captioning and any closed captioning should not block any emergency information provided by means other than closed captioning; and

(ii) Emergency information should not block any video description and any video description provided should not block any emergency information provided by means other than video description.

(c) *Complaint procedures.* A complaint alleging a violation of this section may be transmitted to the Commission by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's dis-

ability. The complaint should include the name of the video programming distributor against whom the complaint is alleged, the date and time of the omission of emergency information, and the type of emergency. The Commission will notify the video programming distributor of the complaint, and the distributor will reply to the complaint within 30 days.

[65 FR 26762, May 9, 2000, as amended at 65 FR 54811, Sept. 11, 2000]

§ 79.3 Video description of video programming.

(a) *Definitions.* For purposes of this section the following definitions shall apply:

(1) *Designated Market Areas (DMAs).* Unique, county-based geographic areas designated by Nielsen Media Research, a television audience measurement service, based on television viewership in the counties that make up each DMA.

(2) *Second Audio Program (SAP) channel.* A channel containing the frequency-modulated second audio program subcarrier, as defined in, and subject to, the Commission's OET Bulletin No. 60, Revision A, "Multichannel Television Sound Transmission and Processing Requirements for the BTSC System," February 1986.

(3) *Video description.* The insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

(4) *Video programming.* Programming provided by, or generally considered comparable to programming provided by, a television broadcast station that is distributed and exhibited for residential use.

(5) *Video programming distributor.* Any television broadcast station licensed by the Commission and any multi-channel video programming distributor (MVPD), and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission.

(6) *Prime time.* The period from 8 to 11:00 p.m. Monday through Saturday, and 7 to 11:00 p.m. on Sunday local time, except that in the central time