

(3) If some of a video programmer's programs are exempt from the closed captioning rules under one or more of the exemptions set forth in this section, as part of the certification required by paragraph (m)(1) of this section, the video programmer shall include a certification stating that some of its programs are exempt from the closed captioning rules and specify each category of exemption claimed by the video programmer.

(4) A television broadcast station licensed pursuant to part 73 of this chapter or a low power television broadcast station licensed pursuant to part 74, subpart G, of this chapter, or the owner of either such station, is not required to provide a certification for video programming that is broadcast by the television broadcast station.

[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; 74 FR 1604, Jan. 13, 2009; 74 FR 46703, Sept. 11, 2009; 75 FR 7369, Feb. 19, 2010; 77 FR 19515, Mar. 30, 2012; 77 FR 48104, Aug. 13, 2012; 79 FR 17926, Mar. 31, 2014; 79 FR 77916, Dec. 29, 2014; 81 FR 57485, Aug. 23, 2016]

EFFECTIVE DATE NOTE: At 75 FR 7369, Feb. 19, 2010, paragraph (g)(3) was stayed.

EFFECTIVE DATE NOTE: At 81 FR 57485, Aug. 25, 2016, § 79.1 was amended, effective Sept. 22, 2016. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 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 condi-

tions, 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 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, that is provided in the audio portion of the programming 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.

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

(i) Emergency information that is provided visually during a regularly scheduled newscast, or newscast that interrupts regular programming, must be made accessible to individuals who are blind or visually impaired; and

(ii) Emergency information that is provided visually during programming that is neither a regularly scheduled newscast, nor a newscast that interrupts regular programming, must be accompanied with an aural tone, and beginning May 26, 2015 except as provided in paragraph (b)(6) of this section, must be made accessible to individuals who are blind or visually impaired through the use of a secondary audio stream to provide the emergency information aurally. Emergency information provided aurally on the secondary audio stream must be preceded by an aural tone and must be conveyed in full at least twice. Emergency information provided through use of text-to-speech ("TTS") technologies must be intelligible and must use the correct pronunciation of relevant information to allow consumers to learn about and respond to the emergency, including,

but not limited to, the names of shelters, school districts, streets, districts, and proper names noted in the visual information. The video programming distributor or video programming provider that creates the visual emergency information content and adds it to the programming stream is responsible for providing an aural representation of the information on a secondary audio stream, accompanied by an aural tone. Video programming distributors are responsible for ensuring that the aural representation of the emergency information (including the accompanying aural tone) gets passed through to consumers.

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

(4) Video programming distributors must ensure that emergency information does not block any closed captioning and any closed captioning does not block any emergency information provided by means other than closed captioning.

(5) Video programming distributors and video programming providers must ensure that aural emergency information provided in accordance with paragraph (b)(2)(ii) of this section supersedes all other programming on the secondary audio stream, including video description, foreign language translation, or duplication of the main audio stream, with each entity responsible only for its own actions or omissions in this regard.

(6) Beginning July 10, 2017, multichannel video programming distributors must ensure that any application or plug-in that they provide to consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their multichannel video programming distributor services is capable of passing through to consumers an aural representation of the emergency information (including the accompanying aural tone) on a secondary audio stream.

(c) *Complaint procedures.* A complaint alleging a violation of this section may be transmitted to the Consumer and Governmental Affairs Bureau by any

reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile transmission, telephone (voice/TRS/TTY), Internet email, audio-cassette recording, and Braille, or some other method that would best accommodate the complainant's disability. The complaint should include the name of the video programming distributor or the video programming provider 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 or the video programming provider of the complaint, and the distributor or the provider will reply to the complaint within 30 days.

[65 FR 26762, May 9, 2000, as amended at 65 FR 54811, Sept. 11, 2000; 78 FR 31797, May 24, 2013; 80 FR 39714, July 10, 2015]

§ 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 The Nielsen Company, a television audience measurement service, based on television viewership in the counties that make up each DMA.

(2) *Video programming provider.* Any video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to, broadcast or nonbroadcast television networks and the owners of such programming.

(3) *Video description/Audio 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, but not including consumer-generated media.

(5) *Video programming distributor.* Any television broadcast station licensed by the Commission and any multichannel video programming distributor (MVPD), and any other distributor of