



Hurricane Dorian

As you know, Hurricane Dorian is lurking/approaching and, according to some models, may be on track to deliver a direct (or, maybe, glancing) blow to parts of North Carolina. While the path and strength of the storm are impossible to predict with certainty, there is some chance that North Carolina could feel its effects later this week. Obviously, many of you are tracking the storm and providing coverage and updates to viewers and listeners in a way that NCAB can't, and, in fact, NCAB is relying on many of *you* for information!

Given the uncertainty of the situation, the holiday weekend that we're in the middle of, and given the recent experience that we had with Matthew and Florence, we are reaching out to you today to let you know where things stand and to provide some reminders. This is a long email to digest on top of the food you're enjoying at your cookout, but it will be well worth reading so that you understand what the next steps are from the Association's standpoint. (Of course, every station should socialize Dorian issues and implications with their management, corporate headquarters, and FCC counsel.)

The theme for this message is Preparing to Be Prepared.

NCAB Has Been in Touch with NCEM. As things have been developing, your NCAB has been in touch with North Carolina Emergency Management (NCEM). NCEM is gearing up and preparing for the worst while hoping for the best. Following Matthew and Florence, NCEM has provided NCAB a literal "seat at the table" to share with NCEM if/when things become critical. Thus, we will literally be "in the room" at EOC in Raleigh if Dorian's approach continues to threaten North Carolina.

Should NCAB Members Also Contact NCEM? NCEM has a significant mission to fulfill, and they are working hard. We don't want to inundate with NCEM with inquiries and communications from numerous broadcasters. Thus, to the extent that you have questions, please direct them to one of us at NCAB (Lisa Reynolds: lreynolds@ncbroadcast.com or Elizabeth Parker Harris: eparker@ncbroadcast.com).

If you have a personal relationship with someone embedded with NCEM, we're not suggesting that you shouldn't tap into that resource, but NCAB will be better served—for all of its members—to present a single point of contact for NCEM so that they don't feel like they are being pulled in different directions by broadcasters.



NCAB Has Been in Touch with the FCC. As things have been developing, your NCAB has been in touch with the FCC about the Dorian situation. With the FCC's assistance, we have secured FEMA Priority Access Letters for stations that might need to use them. Copies are attached.

FEMA Has Issued Letters to Assist NC Stations with Priority Access if Needed. Letters have been issued by FEMA, and copies are attached. Please keep in mind that these are letters FEMA issues to assist with access. Local authorities are **not** required to honor them. If you run into a situation where local authorities do not honor the FEMA letters, please let us know so that we can contact NCEM to try to enlist assistance.

DIRS is Voluntary. As of 3:30 p.m. today, September 1, the FCC has not yet activated its DIRS platform (Disaster Information Reporting System) for any counties in North Carolina. DIRS is the FCC's voluntary system by which stations can report whether they have gone off the air as a result of a disaster. Depending on Dorian's track, the FCC might activate DIRS for some North Carolina counties later this week. When the FCC activates DIRS, it releases a Public Notice, and it also has recently begun directly emailing stations in the affected areas—thus, keep an eye out for the Public Notice, for FCC emails, and for further information from your NCAB on this topic. To be clear: Stations are NOT required to update the FCC on the status of operations, but you may do so if they are so inclined (here's the DIRS login page: <https://www.fcc.gov/nors/disaster/Login.cfm>). To be sure, NCAB's recommendation is that your stations should attend first to the needs of the station and the listeners/viewers rather than taking the time to provide e-updates to the FCC about operational status.

NCAB Staff Are Available. Is your station in a compromised position caused by Dorian? If it is an emergency contact NCAB directly.

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Reduced Power or Knocked Off the Air? Keep in mind that when stations are affected by a storm like Dorian and end up operating at reduced power (or, worse, are knocked totally off the air), you have TEN DAYS before you need to let the FCC know. Thus, if something like that happens, your stations can and should attend to their immediate urgent needs on site, and you can deal with the FCC issues a few days later. So, don't worry in the short term about scrambling around to notify the FCC if your transmitters or antennas become compromised by Dorian's wrath.

Accessibility of Emergency Information Provided By TV Stations. On Friday, the FCC released its annual reminder of the “accessibility” obligations for TV stations that air emergency information. A copy of the FCC’s Public notice is attached. TV stations should review it carefully to ensure compliance with the requirements. It covers TV stations obligations for both deaf/hard-of-hearing viewers and blind/visually-impaired viewers.

Phase 5 Repack TV Stations. We have received informal word from the FCC Staff that they are well aware of Dorian, its path and the potential implications for Phase 5 transitioning TV stations. To the extent that any Phase 5 TV station feels like Dorian may present challenges (especially safety challenges) to completing its repack project on time, please make sure your FCC counsel knows and/or let NCAB know. Dorian represents a challenging situation for Phase 5 of the repack, and it is important that the FCC have as much information as quickly as possible about the various situations.

As Dorian’s path progresses, rest assured that your NCAB will be ready to move with guidance to membership and to continue to coordinate with our NCEM partners.



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 19-855

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REMINDER REGARDING OBLIGATIONS TO MAKE TELEVISED EMERGENCY INFORMATION ACCESSIBLE TO VIEWERS WITH DISABILITIES

MB Docket No. 12-107

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 residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission”¹—of their obligation under section 79.2 of the Commission’s rules to make televised emergency information accessible to persons with disabilities.² This Public Notice also provides information for consumers on how to file complaints for noncompliance with this obligation.³

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.”⁴ Examples of the types of emergencies covered by the rule 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.”⁵ 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.”⁶

While the rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring, it also may apply to information provided during programming that is distributed to an area outside the area immediately affected by an

¹ 47 CFR § 79.1(a)(11) (defining “video programming distributor”).

² See 47 CFR § 79.2. Because of the importance of this issue, we have released similar Public Notices in the past. See, e.g., *Reminder Regarding Obligations to Make Televised Emergency Information Accessible to Viewers with Disabilities*, Public Notice, 33 FCC Rcd 8370 (CGB 2018). Unlike the closed captioning obligations contained in section 79.1 of the rules, there are no exemptions to these televised emergency information accessibility requirements.

³ See 47 CFR § 79.2(c).

⁴ 47 CFR § 79.2(a)(2).

⁵ *Id.*

⁶ Note to 47 CFR § 79.2(a)(2).

emergency. This is especially likely to happen when a large-scale disaster primarily affects one region but has an impact on outlying areas.⁷ In addition, critical details about an ongoing emergency should continue to be accessible to individuals with disabilities during the aftermath of the immediate occurrence to ensure that people living in the affected communities have up-to-date information, when needed, to effectively respond to the event in a manner that can protect their life, health, safety, and property.

Individuals who are Blind or Visually Impaired. To ensure access to emergency information by persons who are blind or visually impaired, emergency information provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming must be made accessible by aurally describing the emergency information in the main audio portion of the programming.⁸ When emergency information is conveyed visually during programming other than newscasts (e.g., through “crawling” or “scrolling” text during regular programming), an aural tone on the main audio stream must accompany the visual information.⁹ Additionally, such visual emergency information must be conveyed aurally in full at least twice through a secondary audio stream, preceded by an aural tone on that stream.¹⁰ Aural emergency information must supersede all other programming on the secondary audio stream, including video description, foreign language translation, or duplication of the main audio stream.¹¹ Finally, multichannel video programming distributors (MVPDs) must ensure that any application or plug-in that they provide to consumers to access linear programming on second screen devices (e.g., tablets, smartphones, laptops, and similar devices) over their networks as part of their MVPD services is capable of passing through an aural representation of emergency information (including the aural tone) on a secondary audio stream.¹²

Individuals who are Deaf or Hard of Hearing. Emergency information provided in the audio portion of programming also must be accessible to persons who are deaf or hard of hearing through closed captioning or other methods of visual presentation, including open captioning, crawls or scrolls that appear on the screen.¹³ Visual presentation of emergency information may not block any closed captioning, and closed captioning may not block any emergency information provided by crawls, scrolls, or other visual means.¹⁴

VPDs that are not permitted to rely on the electronic newsroom technique (ENT) to caption live

⁷ For instance, the June 2019 wildfire that caused evacuations in Yolo County, California also affected air quality miles away in Bay Area counties. See KPIX5, *Sand Fire Burning in Yolo County Sends Smoke Across Sweltering Bay Area* (June 8, 2019), <https://sanfrancisco.cbslocal.com/2019/06/08/sand-fire-yolo-county-smoky-sky-bay-area/>.

⁸ 47 CFR § 79.2(b)(2)(i).

⁹ See 47 CFR § 79.2(b)(2)(ii).

¹⁰ *Id.*

¹¹ 47 CFR § 79.2(b)(5).

¹² 47 CFR § 79.2(b)(6). See Consumer & Governmental Affairs Bureau Reminds MVPDs of July 10, 2017 Deadline to Pass Through Audible Emergency Information During Linear Programming on Second Screen Devices, MB Docket No. 12-107, Public Notice, 32 FCC Rcd 4773 (CGB 2017).

¹³ 47 CFR § 79.2(b)(1).

¹⁴ See 47 CFR § 79.2(b)(4). We note that some state and local government officials provide American Sign Language (ASL) interpreter services during their televised emergency announcements and press conferences. To the extent this service is provided, we encourage VPDs and video programmers to ensure that the interpreter is visible on the television screen at all times in order to benefit viewers who use ASL. See, e.g., National Council on Disability, *Effective Communications for People with Disabilities: Before, During, and After Emergencies*, <https://ncd.gov/publications/2014/05272014/> (May 27, 2014); National Association of the Deaf, *Position Statement on Accessible Emergency Management for Deaf and Hard of Hearing People*, <https://www.nad.org/about-us/position-statements/position-statement-on-accessible-emergency-management-for-deaf-and-hard-of-hearing-people/> (last visited July 26, 2019).

programming must provide closed captioning for emergency information presented during regularly scheduled newscasts and newscasts that interrupt regular programming.¹⁵ VPDs should take steps to establish internal protocols to obtain closed captioning resources quickly in the event of an emergency.¹⁶ We also emphasize that, when closed captioning services are not provided, VPDs must make emergency information accessible by some other visual presentation method.¹⁷ Likewise, VPDs that are permitted to use the ENT method to create captions for their live programming are reminded that, because the ENT method does not automatically caption non-scripted news, they must make the emergency information accessible by some other form of visual presentation.¹⁸

Individuals with Cognitive Disabilities. While not required by the Commission's rules, VPDs and video programmers are encouraged to make emergency information accessible to people with cognitive disabilities, such as through using plain language and pictorial information.¹⁹

Consumer Complaints and Enforcement

The Commission will continue to monitor complaints alleging violations of the emergency information rules and will review them for possible enforcement action. Consumers with a complaint regarding the inaccessibility of emergency information may file with the FCC online at www.fcc.gov/complaints or by contacting the FCC using the following methods:

By mail (please include your name, address, contact information and as much detail about your complaint as possible):

Federal Communications Commission
Consumer and Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, SW
Washington, DC 20554

Phone: 1-888-225-5322 (voice); 1-844-432-2275 (videophone); 1-888-835-5322 (TTY)
Fax: 866-418-0232

¹⁵ ENT is a technique that converts the dialogue included on a teleprompter script into captions. For purposes of determining compliance with section 79.1, the Commission's rules permit live programming to be captioned using ENT, 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 non-broadcast networks serving at least 50% of all homes subscribing to multichannel video programming services. See 47 CFR § 79.1(e)(3).

¹⁶ See, e.g., *Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons with Hearing Disabilities Using Closed Captioning*, Public Notice, 21 FCC Rcd 15084, 15084-85 (CGB 2006) (suggesting steps that include contracting with services that can generate closed captions on very short notice, posting notices in the newsroom reminding staff to contact the designated closed captioning service at the onset of an emergency, and labeling speed-dial buttons on newsroom telephones to connect to the captioning service).

¹⁷ *Id.* at 21 FCC Rcd 15085-86; see also 47 CFR § 79.2(b)(1).

¹⁸ See 47 CFR § 79.2(b)(1); *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, MM Docket No. 95-176, Second Report and Order, 15 FCC Rcd 6615, 6623-24, para. 16 (2000).

¹⁹ See *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*, Public Notice, 31 FCC Rcd 10906, 10909-10 (CGB 2016); see also Consumer and Governmental Affairs Bureau, Federal Communications Commission, *Individuals with Cognitive Disabilities: Barriers to and Solutions for Accessible Information and Communication Technologies* (2016), <https://docs.fcc.gov/public/attachments/DOC-341628A1.pdf> (FCC White Paper containing best practices for making communications accessible to people with cognitive disabilities).

More information about access to televised emergency information is available at the FCC's Web site at <https://www.fcc.gov/general/access-emergency-information-television>. Information about access to emergency information on television is also available in American Sign Language: www.fcc.gov/TVEmergencyAccessASL.

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 Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

Consumer and Governmental Affairs Bureau Contact: Debra Patkin, Attorney Advisor, Disability Rights Office, 202-870-5226, e-mail Debra.Patkin@fcc.gov.

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