

Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210

A. Justification:

Background

1. The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA)¹ was enacted on October 8, 2010. The CVAA requires the Commission to take various measures to ensure that people with disabilities have access to emerging communications technologies in the 21st century. Section 105 of the CVAA adds Section 719² to the Communications Act of 1934, as amended (the Act), as follows:
 - (a) Within six months after the date of enactment of the CVAA, the Commission must establish rules that define as eligible for relay service support those programs that are approved by the Commission for the distribution of specialized customer premises equipment (CPE) designed to make telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, accessible by low-income individuals who are deaf-blind.
 - (b) For purposes of Section 719, the term “individuals who are deaf-blind” has the same meaning given such term in the Helen Keller National Center (HKNC) Act, as amended by the Rehabilitation Act Amendments of 1992 (29 U.S.C. 1905(2)).
 - (c) The total amount of support the Commission may provide from its Interstate Telecommunications Relay Service (TRS) Fund for any fiscal year may not exceed \$10,000,000.

On November 3, 2010, the Consumer and Governmental Affairs Bureau (CGB) issued the National Deaf-Blind Equipment Distribution Program Public Notice (*NDBEDP PN*) seeking comment on a range of issues related to the Commission’s implementation of Section 719 of the Act.³ The comments filed in response to the *NDBEDP PN* informed the preparation of a National Deaf-Blind Equipment Distribution Program Notice of Proposed Rulemaking (*NDBEDP NPRM*) that the Commission released on January 14, 2011.⁴ The Commission proposed ways to support the distribution of specialized CPE to enhance and promote access to telecommunications service, Internet access service, and advanced communications by low-income individuals who are deaf-blind, and sought comment on those proposals.

¹ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (S. 3304, 111th Cong.) (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. 111-265, 124 Stat. 2795 (2010), also enacted on October 8, 2010 (S. 3828, 111th Cong.) (making technical corrections).

² Section 719 of the Act is codified at 47 U.S.C. § 620.

³ *Consumer and Governmental Affairs Bureau Seeks Comment on Implementation of Requirement to Define Programs for Distribution of Specialized Customer Premises Equipment Used by Individuals who are Deaf-Blind*, 25 FCC Rcd 15288 (CGB 2010) (*NDBEDP PN*).

⁴ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Notice of Proposed Rulemaking, 26 FCC Rcd 688 (2011) (*NDBEDP NPRM*).

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On April 6, 2011, the Commission released a Report and Order adopting rules to establish a NDBEDP pilot program in accordance with Section 719 of the Act.⁵ The NDBEDP pilot program will support the distribution of specialized CPE and the provision of associated services, and help to inform future Commission action in establishing a more permanent NDBEDP.

State equipment distribution programs (EDPs), other public programs, and private entities may apply to the Commission for certification as the sole authorized entity for the state to participate in the NDBEDP and receive reimbursement for its activities from the TRS Fund. For each state, the Commission will certify a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement from the TRS Fund. Such entity will have full oversight and responsibility for distributing equipment and providing related services in that state, either directly or through collaboration, partnership, or contract with other individuals or entities in-state or out-of-state, including other NDBEDP certified programs.

Information Collection Requirements:

In the *Report and Order*, the Commission adopts rules requiring the following:

- (a) State EDPs, other public programs, and private entities may submit applications for NDBEDP certification to the Commission. For each state, the Commission will certify a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement from the TRS Fund. The Commission will determine whether to grant certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:
- expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind, to ensure that equipment distribution and the provision of related services occurs in a manner that is relevant and useful to consumers who are deaf-blind;
 - the ability to communicate effectively with people who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;
 - staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to eligible individuals throughout the state, including those in remote areas;
 - experience with the distribution of specialized CPE, especially to people who are

⁵ *In the Matter of Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, CG Docket No. 10-210; FCC 11-56 (April 6, 2011) (*Report and Order*).

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deaf-blind;

- experience in how to train users on how to use the equipment and how to set up the equipment for its effective use; and
- familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment.

(b) Each program certified under the NDBEDP must submit the following data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months, commencing with the start of the pilot program:

- for each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual receiving that equipment;
- for each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual attesting to the disability of the individual who is deaf-blind;
- for each piece of equipment distributed, its name, serial number, brand, function, and cost, the type of communications service with which it is used, and the type of relay service it can access;
- for each piece of equipment distributed, the amount of time, following any assessment conducted, that the requesting individual waited to receive that equipment;
- the cost, time and any other resources allocated to assessing an individual's equipment needs;
- the cost, time and any other resources allocated to installing equipment and training deaf-blind individuals on using equipment;
- the cost, time and any other resources allocated to maintain, repair, cover under warranty, and refurbish equipment;
- the cost, time and any other resources allocated to outreach activities related to the NDBEDP, and the type of outreach efforts undertaken;
- the cost, time and any other resources allocated to upgrading the distributed equipment, along with the nature of such upgrades;
- to the extent that the program has denied equipment requests made by their deaf-blind residents, a summary of the number and types of equipment requests denied and reasons for such denials;
- to the extent that the program has received complaints related to the program, a summary of the number and types of such complaints and their resolution; and

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- the number of qualified applicants on waiting lists to receive equipment.
- (c) Each program certified under the NDBEDP must retain all records associated with the distribution of equipment and provision of related services under the NDBEDP for two years following the termination of the pilot program.
- (d) Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.
- (e) Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the income eligibility requirements.
- (f) Programs certified under the NDBEDP shall be reimbursed for the cost of equipment that has been distributed to eligible individuals and authorized related services, up to the state's funding allotment under this program. Within 30 days after the end of each six-month period of the Fund Year, each program certified under the NDBEDP pilot must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:
- equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing, upgrading, and replacing equipment distributed to consumers;
 - individual needs assessments;
 - installation of equipment and individualized consumer training;
 - maintenance of an inventory of equipment that can be loaned to the consumer during periods of equipment repair;
 - outreach efforts to inform state residents about the NDBEDP; and
 - administration of the program, but not to exceed 15 percent of the total reimbursable costs for the distribution of equipment and related services permitted under the NDBEDP.

The statutory authority for this information collection is contained in 47 U.S.C. 154, 254(k); sections 403(b)(2)(B),(c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, 254(k), and 620.

2. All collections of information are promulgated pursuant to section 105 of the CVAA which adds Section 719 to the Communications Act and requires that the Commission establish rules within six months of enactment of the new statute that define as eligible for relay service support those programs approved by the Commission for the distribution of specialized CPE to low-income individuals who are deaf-blind.

This information collection does contain personally identifiable information (PII) on individuals.

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- (a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA)⁶ on June 28, 2007, that gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII covered by these information collection requirements. The PIA may be viewed at http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.
- (b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC published a system of records notice (SORN), FCC/CGB-1, “Informal Complaints and Inquiries,” in the *Federal Register* on December 15, 2009 (74 FR 66356), which became effective on January 25, 2010.

NOTE: The Commission is in the process of preparing the new SORN and PIA titled CGB-3, “National Deaf-Blind Equipment Distribution Program,” to cover the PII collected related thereto, as required by OMB’s Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.

3. During this pilot program, the Commission will permit applications for certification to participate in the NDBEDP, verifications of disability, income verifications, and claims for reimbursement to be submitted electronically. The rules adopted for the NDBEDP pilot program establish semi-annual reporting requirements for NDBEDP certified programs and require those reports to be submitted electronically. Requiring information collections to be submitted electronically is intended to promote electronic recordkeeping to facilitate and reduce the burden of reporting by these certified programs. In addition, these electronic submissions will facilitate efficient and effective assessment and evaluation of NDBEDP certified programs for the administration and operation of the pilot program and for the development of rules for the permanent program. Finally, during the pilot program, the Commission will continue to explore ways to simplify reporting for the permanent NDBEDP, including the submission of information through a web-based database.
4. The information is not duplicated elsewhere. No similar information is available.
5. The collections of information on any small businesses or entities will not be significant.
6. There are no statutory consequences if such information is not submitted by NDBEDP certified programs.
7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.
8. The Commission published a notice in the *Federal Register* as required by 5 CFR 1320.8(d) seeking comments from the public on the information collection requirements contained in this supporting statement. See 76 FR 26727, published on May 9, 2011. The Commission did not receive any comments in response to the notice.
9. The Commission does not anticipate providing any payment or gift to respondents.

⁶ The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

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10. Some assurances of confidentiality are being provided to the respondents. The PIA that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys PII, as required by OMB regulations and the Privacy Act, 5 U.S.C. § 552a. The PIA may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

Also, as stated above in question 2, the Commission is in the process of preparing the new SORN and PIA titled CGB-3, "National Deaf-Blind Equipment Distribution Program," to cover the PII collected related thereto, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.

11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of hour burden for the collection of information are as follows:

Information Collection Requirements

In the *Report and Order*, the Commission adopts rules requiring the following:

- (a) State EDPs, other public programs, and private entities may submit applications for NDBEDP certification to the Commission. For each state, the Commission will certify a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement from the TRS Fund. The Commission will determine whether to grant certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:
- expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind, to ensure that equipment distribution and the provision of related services occurs in a manner that is relevant and useful to consumers who are deaf-blind;
 - the ability to communicate effectively with people who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;
 - staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to eligible individuals throughout the state, including those in remote areas;
 - experience with the distribution of specialized CPE, especially to people who are deaf-blind;
 - experience in how to train users on how to use the equipment and how to set up the equipment for its effective use; and

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- familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment.

The Commission estimates that 2 entities will apply for Commission certification for each state (53 programs),⁷ resulting in a total of 106 potential applicants (state EDPs, other public programs, and private entities) that will apply for Commission certification.

Annual Number of Respondents: 106⁸

This process will be done on a one-time basis during the NDBEDP pilot program.

The Commission estimates that 106 respondents/applicants will require approximately 30 hours for completing and submitting the application for Commission certification.

106 respondents/applicants x 30 hours = 3,180 hours

Annual One-Time Burden Hours: 3,180 hours

106 respondents/applicants will complete and submit the application once

Annual Number of Responses: 106 Responses

Annual “In-House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to complete and submit the application for Commission certification.

3,180 hours for completing the application process x \$87.37 per hour = \$277,836.60

Annual “In-House” Costs = \$277,836.60

Annualized Burdens -- Though respondents will incur the burdens estimated in this section on a one-time basis, for purposes of cumulative burden estimates, these one-time estimates are annualized over the three-year period for which the Commission seeks approval for this collection. Therefore:

Total Annual Number of Responses: $106/3 = 35$ Responses per year

Total Annual Number Burden Hours: $3,180 \text{ hours}/3 = 1,060$ hours per year

Total Annual “In-House” Cost: $\$277,836.60/3 = \$92,612.20$ per year

⁷ The amount of 53 programs is comparable to the total of 50 states, District of Columbia, Puerto Rico, and Virgin Islands that currently administer intrastate telecommunications relay service programs.

⁸ 53 states (respondents) x 2 entities/state applying for Commission certification = 106 respondents.

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- (b) Each program certified under the NDBEDP must submit the following data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months, commencing with the start of the pilot program:
- for each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual receiving that equipment;
 - for each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, phone number, for the individual attesting to the disability of the individual who is deaf-blind;
 - for each piece of equipment distributed, its name, serial number, brand, function, and cost, the type of communications service with which it is used, and the type of relay service it can access;
 - for each piece of equipment distributed, the amount of time, following any assessment conducted, that the requesting individual waited to receive that equipment;
 - the cost, time and any other resources allocated to assessing an individual's equipment needs;
 - the cost, time and any other resources allocated to installing equipment and training deaf-blind individuals on using equipment;
 - the cost, time and any other resources allocated to maintain, repair, cover under warranty, and refurbish equipment;
 - the cost, time and any other resources allocated to outreach activities related to the NDBEDP, and the type of outreach efforts undertaken;
 - the cost, time and any other resources allocated to upgrading the distributed equipment, along with the nature of such upgrades;
 - to the extent that the program has denied equipment requests made by their deaf-blind residents, a summary of the number and types of equipment requests denied and reasons for such denials;
 - to the extent that the program has received complaints related to the program, a summary of the number and types of such complaints and their resolution; and
 - the number of qualified applicants on waiting lists to receive equipment.

Because the Commission will select up to 53 out of 106 potential applicants to become certified program recipients of funding under the NDBEDP, the Commission estimates that 53 certified programs will be affected by this information collection. The Commission

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estimates these 53 certified programs will be required to submit data every six months.

Annual Number of Respondents: 53

This process will be done twice a year (once every six months).

2 responses/submission per year

53 respondents/certified programs x 2 responses/submission per year = 106 responses

Annual Number of Responses: 106 Responses

The Commission estimates that each response will require approximately 60 hours for the submission of the required data.

106 responses/submission x 60 hours = 6,360 hours/year

Annual Number of Burden Hours: 6,360 hours

Annual "In House" Costs:

The Commission assumes that respondents use "in-house" personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents' costs to be about \$87.37 per hour to comply with the requirement to submit data.

6,360 hours to submit data x \$87.37/hour = \$555,673.20

Annual "In-House" Costs = \$555,673.20

- (c) Each program certified under the NDBEDP must retain all records associated with the distribution of equipment and provision of related services under the NDBEDP for two years following the termination of the pilot program.

The Commission estimates that 53 certified programs under the NDBEDP will be required to retain NDBEDP-related records.

Annual Number of Respondents: 53

The Commission estimates that each respondent will retain records annually.

Annual Number of Responses: 53 Responses

While this process will be done on an ongoing basis, the Commission estimates that the average hourly burden for retaining records is 2 hours per month.

2 hours per month x 12 months = 24 hours/year

53 responses x 24 hours/year = 1,272 hours

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Annual Burden Hours: 1,272hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to retain records.

1,272 hours to retain records x \$87.37 /hour = \$111,134.64

Annual “In-House” Costs = \$111,134.64

- (d) Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

The Commission estimates that 53 certified programs under the NDBEDP will be required to obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

Annual Number of Respondents: 53

The Commission estimates that each respondent will be required to obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

Annual Number of Responses: 53 Responses

While this process will be done on an ongoing basis, the Commission estimates that the average hourly burden for obtaining verifications is 10 hours per month.

10 hours per month x 12 months = 120 hours/year

53 responses x 120 hours/year = 6,360 hours

Annual Number of Burden Hours: 6,360 hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

6,360 hours to obtain authentication x \$87.37/hour = \$555,673.20

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Annual “In-House” Costs = \$555,673.20

- (e) Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the income eligibility requirements.

The Commission estimates that 53 certified program under the NDBEDP will be required to obtain verification that NDBEDP applicants meet the income eligibility requirements.

Annual Number of Respondents: 53

The Commission estimates that each respondent will be required to obtain verification that NDBEDP applicants meet the income eligibility requirements.

Annual Number of Responses: 53 Responses

While this process will be done on an ongoing basis, the Commission estimates that the average hourly burden for obtaining verification is 5 hours per month.

5 hours per month x 12 months = 60 hours/year

53 responses x 60 hours/year = 3,180 hours

Annual Number of Burden Hours: 3,180 hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to obtain verification that NDBEDP applicants meet the income eligibility requirements.

3,180 hours to obtain verification x \$87.37/hour = \$277,836.60

Annual “In-House” Costs = \$277,836.60

- (f) Programs certified under the NDBEDP shall be reimbursed for the cost of equipment that has been distributed to eligible individuals and authorized related services, up to the state’s funding allotment under this program. Within 30 days after the end of each six-month period of the Fund Year, each program certified under the NDBEDP pilot must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:

- equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing , upgrading, and replacing equipment distributed to consumers;
- individual needs assessments;

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- installation of equipment and individualized consumer training;
- maintenance of an inventory of equipment that can be loaned to the consumer during periods of equipment repair;
- outreach efforts to inform state residents about the NDBEDP; and
- administration of the program, but not to exceed 15 percent of the total reimbursable costs for the distribution of equipment and related services permitted under the NDBEDP.

The Commission estimates that 53 certified programs will be required to submit requests for reimbursement of expenses incurred in participating in this program.

Annual Number of Respondents: 53

The Commission estimates that each respondent will be required to submit requests for reimbursement of expenses.

This process will be done twice a year.

2 responses/submission per year

53 respondents/certified programs x 2 responses/submission per year = 106 responses

Annual Number of Responses: 106 Responses

The Commission estimates that each response will require approximately 30 hours for recordkeeping and submission of the report on the administrative expenses.

106 responses/submission x 30 hours = 3,180 hours/year

Annual Number of Burden Hours: 3,180 hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour for recordkeeping and submission of the report on the administrative expenses.

3,180 hours/submission x \$87.37 /hour = \$277,836.60

Annual “In-House” Costs = \$277,836.60

Cumulative Number of Respondents: 106

Cumulative Number of Annual Responses: 406

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Cumulative Annual Burden Hours: 21,412 hours

Cumulative Annual “In-House” Costs: \$1,870,766.44

13. There are no outside costs to respondents. In addition to the above information collection requirements, each certified program under the NDBEDP must engage an independent auditor to perform an annual audit designed to detect and prevent fraud, waste and abuse. The certified programs will be reimbursed for the costs of these regular audits from the TRS Fund as reasonable costs of administration NDBEDP. Therefore:

(a) Total annualized capital/start-up costs: **None**

(b) Total annual cost (O&M): **None**

(c) Total annualized cost requested: **None**

14. The FCC will administer the semi-annual reports filed by program recipients (“using Commission staff”):

The Commission will use staff attorneys at the GS-15/5 level, to process annual reports filed by program recipients, and therefore, the Commission estimates the time to process each semi-annual report to be approximately 8 hours.

On average, the Commission estimates that it will receive approximately 106 reports annually, thus:

$$106 \text{ annual reports} \times 8 \text{ hours/year report processing} \times \$67.21 = \$56,994.08$$

Total Cost to Federal Government: \$56,994.08

15. The Commission has program changes/increases to this information collection due to the adoption of the information collection requirements contained in FCC 11-56. Therefore, the program changes are as follows: +106 to the number of respondents, +406 to the annual number of responses and +21,412 to the annual burden hours.

16. There are no plans to publish the result of the collection of information.

17. The Commission is not seeking approval not to display the expiration date for OMB approval of the information collection because the collection does not include a form number.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ any statistical methods.