

Section 79.2, Accessibility of Programming Providing Emergency Information, and Emergency Information; Section 79.105, Video Description and Emergency Information Accessibility Requirements for All Apparatus; Section 79.106, Video Description and Emergency Information Accessibility Requirements for Recording Devices

SUPPORTING STATEMENT

A. Justification:

1. This submission supports the Office of Management and Budget (OMB) approval of the information collection requirements contained in the Commission's *Report and Order and Further Notice of Proposed Rulemaking*, MB Docket Nos. 12-107, 11-43, FCC 13-45 (the *Emergency Information/Video Description Order*). The current emergency information rules, codified at 47 C.F.R. § 79.2, are designed to ensure that persons with hearing and visual disabilities have access to the critical details of television programming containing emergency information. In 2000, the Commission adopted the rules to assist persons with hearing disabilities, in the *Second Report and Order* in MM Docket No. 95-176.¹ Later that year, the Commission modified the rules to assist persons with visual disabilities, in the *Report and Order* in MM Docket No. 99-339.² In the *Emergency Information/Video Description Order*, the Commission adopts rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (the CVAA) related to accessible emergency information,³ and apparatus requirements for emergency information and video description.⁴ These rules are codified at 47 C.F.R. §§ 79.2, 79.105, and 79.106.

The information collection requirements listed below require OMB review and approval:

(a) Complaints alleging violations of the emergency information rules.

Section 79.2(c) of the Commission's rules provides that 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, and that each complaint should include:

- the name of the video programming distributor (VPD) or video programming provider (VPP) against whom the complaint is alleged;
- the date and time of the omission of the emergency information; and
- the type of emergency.

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 (2000).

² *Implementation of Video Description of Video Programming*, MM Docket No. 99-339, Report and Order, 15 FCC Rcd 15230 (2000).

³ Specifically, pursuant to Section 202 of the CVAA, the *Emergency Information/Video Description Order* requires that video programming distributors and video programming providers (including program owners) make emergency information accessible to individuals who are blind or visually impaired by using a secondary audio stream to convey televised emergency information aurally, when such information is conveyed visually during programming other than newscasts.

⁴ Specifically, pursuant to Section 203 of the CVAA, the *Emergency Information/Video Description Order* requires certain apparatus that receive, play back, or record video programming to make available video description services and accessible emergency information.

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After the Commission receives the complaint, the Commission notifies the VPD or VPP of the complaint, and the VPD or VPP has 30 days to reply.

(b) Complaints alleging violations of the apparatus emergency information and video description requirements.

The *Emergency Information/Video Description Order* adopts procedures for consumers to file complaints alleging violations of the rules containing apparatus emergency information and video description⁵ requirements, 47 C.F.R. §§ 79.105-79.106. A complaint filed with the Commission 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 in writing or Braille, facsimile transmission, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant's disability. Given that the population intended to benefit from the rules adopted will be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer. Such complaints should include certain information about the complainant and the alleged violation, including:

- the name, postal address, and other contact information, such as telephone number or email address, of the complainant;
- the name and contact information, such as postal address, of the apparatus manufacturer or provider;
- information sufficient to identify the software or device used to view or to attempt to view video programming with video description or emergency information;
- the date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the apparatus to view video programming with video description or emergency information;
- a statement of facts sufficient to show that the manufacturer or provider has violated or is violating the Commission's rules;
- the specific relief or satisfaction sought by the complainant; and
- the complainant's preferred format or method of response to the complaint.

The Commission will forward such complaints, as appropriate, to the named manufacturer or provider for its response, as well as to any other entity that Commission staff determines may be involved, and may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules.

(c) Requests for Commission determination of technical feasibility of emergency information and video description apparatus requirements.

The requirements of Section 203 of the CVAA pertaining to apparatus designed to receive or play back video programming apply only to the extent they are "technically feasible." Pursuant to 47 C.F.R. § 79.105(a), all apparatus that (i) is designed to receive or play back video programming transmitted simultaneously with sound that is provided by entities subject to 47 C.F.R. §§ 79.2 and 79.3, (ii) is manufactured in the United States or imported for use in the United States, and (iii) uses a picture screen of any size, must have the

⁵ The information collection requirements for the Commission's video description rules, 47 C.F.R. § 79.3, are set forth in the supporting statement for OMB Control No. 3060-1148.

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capability to decode and make available the secondary audio stream if *technically feasible*. Parties may raise technical infeasibility as a defense when faced with a complaint alleging a violation of the apparatus requirements adopted in the *Emergency Information/Video Description Order* or, alternatively, may file a request for a ruling under § 1.41 of the Commission's rules as to technical infeasibility before manufacturing or importing the product.

(d) Requests for Commission determination of achievability of emergency information and video description apparatus requirements.

Section 203 provides that apparatus "that use a picture screen that is less than 13 inches in size" must meet the requirements of that section only if "achievable," as that word is defined in Section 716 of the Communications Act, and also provides that "apparatus designed to record video programming transmitted simultaneously with sound" are only required to comply with the emergency information and video description requirements "if achievable (as defined in section 716)." Pursuant to 47 C.F.R. § 79.105(b)(3), apparatus that use a picture screen of less than 13 inches in size must comply with the provisions of this section only if doing so is *achievable* as defined in this section. Further, pursuant to 47 C.F.R. § 79.106(a), all apparatus that (i) is designed to record video programming transmitted simultaneously with sound that is provided by entities subject to 47 C.F.R. §§ 79.2 and 79.3, and (ii) is manufactured in the United States or imported for use in the United States, must comply with the provisions of this section except that apparatus must only do so if it is *achievable* as defined in § 79.105(b)(3).

Manufacturers of apparatus that use a picture screen of less than 13 inches in size and of recording devices may petition the Commission, pursuant to 47 C.F.R. § 1.41, for a full or partial exemption from the video description and emergency information requirements before manufacturing or importing the apparatus. Alternatively, manufacturers may assert that a particular apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of this section are not achievable. Pursuant to 47 C.F.R. § 79.105(b)(3), such a petition for exemption or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements of this section is not achievable (meaning with reasonable effort or expense), and the Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the *ACS Order*.⁶

(e) Petitions for purpose-based waivers of emergency information and video description apparatus requirements.

Section 203 of the CVAA permits the Commission to waive emergency information and video description apparatus requirements for any apparatus or class of apparatus that is:

- (a) primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound, or
- (b) designed for multiple purposes, capable of receiving or playing video programming

⁶ See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14607-19, ¶¶ 119-48 (2011) ("ACS Order").

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transmitted simultaneously with sound but whose essential utility is derived from other purposes.

Manufacturers of apparatus may petition the Commission for a full or partial purpose-based waiver of the apparatus requirements adopted in the *Emergency Information/Video Description Order* pursuant to 47 C.F.R. § 79.105(b)(4). The Commission will address any requests for purpose-based waiver on a case-by-case basis, and waivers will be available prospectively for manufacturers seeking certainty prior to the sale of a device.

(f) Submission and review of consumer eligibility information pertaining to DIRECTV, LLC's waiver for provision of aural emergency information during The Weather Channel's programming.

In the *Emergency Information/Video Description Order*, the Commission grants DIRECTV, LLC (DIRECTV) a waiver with respect to the set-top box models on which it is not able to implement audio functionality for emergency information, but conditions such relief by requiring DIRECTV to provide, upon request and at no additional cost to customers who are blind or visually impaired, a set-top box model that is capable of providing aural emergency information. DIRECTV may require reasonable documentation of disability as a condition to providing the box at no additional cost. Thus, DIRECTV customers who are blind or visually impaired may be required to submit reasonable documentation of disability to DIRECTV (*e.g.*, documentation from any professional or service provider, such as a social worker, with direct knowledge of the individual's disability).

The statutory authority for this collection of information is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, and sections

4(i), 4(j), 303, 330(b), 713, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303, 330(b), 613, and 617.

2. The Commission will use information received pursuant to the complaint procedures for violations of section 79.2 to enforce the Commission's emergency information requirements. The Commission will notify video programming distributors and video programming providers of the complaint, and the distributor or provider will provide the Commission with a response to the complaint. The Commission previously has taken enforcement actions for failure to comply with section 79.2, based on complaints filed by viewers. Similarly, the Commission will use information received pursuant to the complaint procedures for violations of sections 79.105 and 79.106 to enforce the Commission's apparatus emergency information and video description requirements. The Commission will forward complaints, as appropriate, to the named manufacturer or provider for its response, as well as to any other entity that the Commission determines may be involved, and it may request additional information from relevant parties.

The Commission will use the information submitted by a manufacturer or other party to determine whether it is technically feasible for apparatus to comply with the emergency information and video description apparatus requirements. The Commission will use the information submitted by a manufacturer or other party to determine whether it is achievable for apparatus designed to receive or play back video programming and that use a picture screen that is less than 13 inches, or designed to record video programming, to comply with the emergency information and video description apparatus requirements. The Commission will use the information submitted by manufacturers or others to determine whether to

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grant a full or partial purpose-based waiver of the emergency information and video description apparatus requirements for certain apparatus.

Finally, DIRECTV will use information provided by customers who are blind or visually impaired as reasonable documentation of disability as a condition to providing a set-top box with audio functionality at no additional cost.

This information collection includes personally identifiable information (PII) with respect to complainants and other individuals.

(a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA) 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 reviewed at:

http://transition.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

(b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC also 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, 2010.⁷ The SORN may be viewed at:

<http://transition.fcc.gov/omd/privacyact/records-systems.html>.

NOTE: The Commission plans to update the SORN and PIA to cover the changes to the PII data, which are collected related to this information collection, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.

3. Viewer complaints alleging violations of 47 C.F.R. § 79.2 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. Consumers may also file their complaint using the FCC's web-based form, which many consumers experience as the least burdensome method. The web-based form is located on the Commission's website at https://esupport.fcc.gov/ccmsforms/form2000.action?form_type=2000C&request_locale=en. Complaints alleging violations of the apparatus emergency information and video description requirements 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 in writing or Braille, facsimile transmission, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant's disability. Given that the population intended to benefit from the rules will be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer.

Requests for Commission determination of technical feasibility or achievability of emergency information

⁷ 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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and video description apparatus requirements may be filed pursuant to 47 C.F.R. § 1.41. Petitions for purpose-based waivers of the emergency information and video description apparatus requirements are expected to be transmitted by U.S. Mail or overnight delivery.

DIRECTV may determine how customers who are blind or visually impaired can submit reasonable documentation of disability in order to obtain a set-top box with audio functionality.

4. No other agency imposes a similar information collection on the respondents. There is no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the information collection burden for small business concerns, including those with fewer than 25 employees.

The Commission requires all apparatus designed to receive or play back video programming that uses a picture screen of any size to make secondary audio streams available for video description and emergency information, if technically feasible. Apparatus that uses a picture screen less than 13 inches in size and apparatus designed to record video programming must comply, if doing so is achievable. Manufacturers may file an informal request with the Commission seeking a determination as to whether compliance with these rules is technically feasible or achievable for certain apparatus. Further regulatory relief is provided through the adoption of rules permitting manufacturers to petition the Commission for waivers for apparatus whose essential utility is derived from purposes other than receiving or playing back video programming, or apparatus primarily designed for other activities. The Commission did not adopt specific procedural requirements for such determination or waiver requests, and expects that this flexibility will minimize the information collection burden on small business concerns. Finally, the Commission provides procedural guidance for consumers to file complaints with the Commission alleging violations of emergency information and video description apparatus requirements. These complaint procedures provide the Commission with flexibility to request additional information from any relevant party when such information is needed, thereby minimizing the information collection burden on small business concerns, including businesses with fewer than 25 employees.

6. If this information collection was not conducted, the Commission might have no basis for enforcing its essential rules regarding accessibility to people with hearing or visual disabilities of emergency information contained in television programming. A viewer complaint process is critical to such enforcement efforts. Additionally, the proposed information collections are necessary for the Commission to carry out the purposes of and to comply with the CVAA.

These information collections are also needed to enable the Commission to provide greater certainty to apparatus manufacturers about what requirements are technically feasible or achievable. If these information collections are not completed, the Commission will be unable to exercise its authority to waive the emergency information and video description apparatus requirements for certain apparatus whose essential utility is derived from purposes other than receiving or playing back video programming, or apparatus primarily designed for other activities. Also, these information collections provide individuals with disabilities a mechanism to file complaints with the Commission, which will assist the Commission in the enforcement of its apparatus rules.

Finally, these information collections allow DIRECTV to verify by reasonable documentation that a

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customer requesting a set-top box with audio functionality at no additional cost has a visual disability.

7. Respondents could file complaints with the Commission more than quarterly depending on the frequency of alleged rule violations. Otherwise, this collection of information is consistent with the guidelines in 5 C.F.R. § 1320.

8. The Commission published a notice in the *Federal Register* on December 19, 2013 at 78 FR 76832 seeking comments on the information collection requirements contained in this supporting statement. The Commission has not received any comments from the public.

9. No payment or gift will be provided to respondents.

10. Some assurances of confidentiality are being provided to the respondents.

Parties filing requests for Commission determinations of technical feasibility and achievability, requests for purpose-based waivers, or responses to complaints alleging violations of the Commission's rules may seek confidential treatment of information they provide pursuant to the Commission's existing confidentiality rules.⁸

Regarding 47 C.F.R. § 79.2, the Commission is requesting that individuals (consumers/respondents) submit their names, addresses, and telephone numbers, which the Commission's staff needs to process the complaints. Regarding complaints alleging violations of the apparatus emergency information and video description requirements, the Commission provides that complaints should include the name, postal address, and other contact information of the complainant. Any use of this information is covered under the routine uses listed in the Commission's SORN, FCC/CGB-1, "Consumer Inquiries and Complaints Division."

Regarding consumer eligibility information pertaining to DIRECTV, LLC's waiver for provision of aural emergency information during The Weather Channel's programming, the Commission is not requesting that consumers provide reasonable documentation of disability, which may contain confidential information (*e.g.*, personal medical information), to the Commission. Such documentation would be provided directly to DIRECTV.

11. This information collection does not raise any questions or issues of a sensitive nature.

12. Estimated In-House Burden and Hour Burden Costs for Respondents

(a) Complaints alleging violations of the emergency information rules.

The Commission estimates that it will receive 45 complaints⁹ per year pursuant to 47 C.F.R. § 79.2. Complaints are not filed at specified intervals, rather they are filed as appropriate when a viewer believes a VPD or VPP has failed to comply with the emergency information requirements of 47

⁸ See 47 C.F.R. § 0.459.

⁹ The Commission previously estimated 25 complaints per year alleging violations of section 79.2. We now estimate an additional 20 complaints per year as a result of the revisions to section 79.2.

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C.F.R. § 79.2. The Commission believes that each complaint will, in turn, require a response from the appropriate VPD or VPP, and the VPD or VPP has 30 days to file its response. To be most inclusive in its estimates, the Commission assumes that each complaint will be filed by a unique viewer against a unique VPD or VPP. The Commission also estimates that each viewer will spend 0.5 hour preparing the complaint, and the VPD or VPP will spend 2 hours on each response. These estimates are based on the FCC staff’s knowledge and familiarity with the availability of the data required.

45 viewers + 30 VPDs + 15 VPPs = **90 respondents**

45 complaints/yr + 45 complaint responses/yr = **90 responses/yr**

The Commission assumes that the viewers themselves will prepare the complaint. The Commission also assumes that 90% of the company responses will be prepared by an attorney or in consultation with an attorney, an engineer, or similar media specialist. The Commission estimates that the respondent will spend 1 hour in consultation with this attorney.

The remaining 10% of company responses would be prepared by “in-house” staff of a VPD or VPP whose pay is comparable to a mid-to-senior level federal employee (GS-14/Step 5 (\$57.13/hour), plus 30% overhead):

45 viewer complaints x 0.5 hour/complaint =	22.5 hours
45 complaint responses x 2 hours/response (in-house staff preparation) x 10% =	9 hours
45 complaint responses x 1 hour/response (consulting “outside” professional) x 90% =	<u>40.5 hours</u>
Annual Burden Hours: 72 hours	

9 hours (in-house staff preparation) x \$57.70/hour =	\$519.30
40.5 hours (staff consultation with “outside” professional) x \$57.70/hour =	\$2,336.85
+ 30% overhead =	<u>\$856.85</u>
Annual “In House” Hourly Cost: \$3713.00	

(b) Complaints alleging violations of the apparatus emergency information and video description requirements.

(1) Complaint respondents. The Commission estimates that 10 complaints will be filed with the Commission. To be most inclusive in its estimates, the Commission assumes that each complaint will be filed by a unique consumer against a unique manufacturer.

10 consumers + 10 manufacturers = **20 respondents**

(2) Complaints. The Commission estimates that each consumer will need 0.5 hour to prepare and submit a complaint to the Commission, including responding to any Commission request for additional information.

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10 complaints = **10 responses**

10 responses x 0.5 hour/complaint = **5 hours**

Annual "In House" Hourly Costs: **\$0**

(3) Responses to complaints. The Commission assumes it will forward complaints to the manufacturer and assumes that the manufacturer will respond to each forwarded complaint.

(i) The Commission expects that manufacturers will use "in house" personnel to respond to 50% of the 10 complaints forwarded by the Commission.

10 x 50% = 5 responses to complaints prepared by "in house" personnel

The Commission estimates that an average of 3 hours will be needed for "in house" personnel to respond to a complaint, including responding to any Commission request for additional information.

5 responses to complaints x 3 hours/response = **15 hours**

The Commission assumes that respondents use "in house" personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents' costs to be about \$88.24 per hour.

15 hours x \$88.24/hour for "in house" staff = **\$1,323.60 (rounded to \$1,324)**

(ii) The Commission expects that manufacturers will use outside legal counsel to respond to 50% of the 10 complaints forwarded by the Commission.

10 x 50% = 5 responses to complaints prepared by outside legal counsel

Manufacturers are likely to spend an average of 1 hour per complaint to coordinate with their outside legal counsel to prepare and submit the response.

5 responses to complaints x 1 hour/response = **5 hours to consult with outside legal counsel**

The Commission assumes that respondents use "in house" personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents' costs to be about \$88.24 per hour.

5 hours x \$88.24/hour for "in house" staff = **\$441.20 (rounded to \$441)**

(4) **Annual Burden Hours:** 5 hours + 15 hours + 5 hours = **25 hours**

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(5) **Annual “In House” Hourly Cost:** $\$0 + \$1,324 + \$441 = \$1,765$

(c) Requests for Commission determination of technical feasibility of emergency information and video description apparatus requirements.

The Commission estimates that **6 manufacturers** will file a total of 6 requests annually requesting a determination that the requirement to have the capability to decode and make available the secondary audio stream is not technically feasible.¹⁰

(1) The Commission estimates that 90% of the requests that manufacturers file will be prepared “in house” using the manufacturer’s staff.

6 requests filed by manufacturers x 90% = **5 requests filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each request.

5 requests filed by manufacturers x 5 hours/request = **25 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

25 hours x \$88.24/hour for “in house” staff = **\$2,206**

(2) The Commission also estimates 10% of the requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

6 requests filed by manufacturers x 10% = **1 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

1 request filed by a manufacturer x 2 hours/request = **2 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

2 hours x \$88.24/hour for “in house” staff = **\$176.48 (rounded to \$176)**

Total Number of Respondents: 6 manufacturers

¹⁰ Requests for such determinations may be filed well before the compliance date of May 26, 2015.

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Total Annual Number of Responses: $5 + 1 = 6$ responses

Total Annual Hourly Burden: $25 + 2 = 27$ hours

Total Annual “In House” Costs: $\$2,206 + \$176 = \$2,382$

(d) Requests for Commission determination of achievability of emergency information and video description apparatus requirements.

The Commission estimates that **6 manufacturers** will file a total of 6 requests annually requesting a determination that the emergency information and video description apparatus requirements are not achievable.¹¹

- (1) The Commission estimates that 90% of the requests that manufacturers file will be prepared “in house” using the manufacturer’s staff.

6 requests filed by manufacturers x 90% = **5 requests filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each request.

5 requests filed by manufacturers x 5 hours/request = **25 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

25 hours x \$88.24/hour for “in house” staff = **\$2,206**

- (2) The Commission also estimates 10% of the requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

6 requests filed by manufacturers x 10% = **1 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 2 hours per request to coordinate with their outside legal counsel to prepare and submit the request.

1 request filed by a manufacturer x 2 hours/request = **2 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

¹¹ Requests for such determinations may be filed well before the compliance date of May 26, 2015.

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2 hours x \$88.24/hour for “in house” staff = **\$176.48 (rounded to \$176)**

Total Number of Respondents: 6 manufacturers

Total Annual Number of Responses: 5 + 1 = 6 responses

Total Annual Hourly Burden: 25 + 2 = 27 hours

Total Annual “In House” Costs: \$2,206 + \$176 = \$2,382

(e) Petitions for purpose-based waivers of emergency information and video description apparatus requirements.

The Commission estimates that **6 manufacturers** will file a total of 6 petitions for purpose-based waivers of the emergency information and video description apparatus rules.

- (1) The Commission estimates that 50% of the purpose-based waiver petitions that manufacturers file will be prepared “in house” using the manufacturer’s staff.

6 petitions filed by manufacturers x 50% = **3 petitions filed using “in-house” staff**

The Commission estimates that an average of 5 hours will be needed to complete all aspects of each petition.

3 petitions filed by manufacturers x 5 hours/petition = **15 hours**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

15 hours x \$88.24/hour for “in house” staff = **\$1,323.60 (rounded to \$1,324)**

- (2) The Commission also estimates 50% of the purpose-based waiver requests that manufacturers file will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms.

6 petitions filed by manufacturers x 50% = **3 request filed using outside legal counsel**

Manufacturers that use outside legal counsel are likely to spend an average of 1 hour per request to coordinate with their outside legal counsel to prepare and submit the petition.

3 petitions filed by a manufacturer x 1 hour/request = **3 hours to consult with outside legal counsel**

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

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3 hours x \$88.24/hour for “in house” staff = **\$264.72 (rounded to \$265)**

Petitions for waiver filed pursuant to this section will be put on public notice, with a minimum of a 30-day period for comments and oppositions. The Commission estimates that an average of 2 comments or oppositions will be filed by interested parties for each waiver petition.

2 respondents x 6 petitions = **12 responses**

The Commission estimates that each response will require approximately 5 hours for the submission of a comment or opposition.

12 responses x 5 hours = **60 hours**

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 \$88.24 per hour to comply with the requirement.

60 hours to submit comments or oppositions x \$88.24/hour = **\$5,294.40 (rounded to \$5,294)**

The Commission estimates that up to 30% of the 6 respondents filing waiver petitions, or 2 respondents, will file reply comments. Of those 2 reply comments, 50% per year will be filed by an in-house attorney.

2 reply comments x 50% = **1 reply comment filed using “in-house” staff**

The Commission estimates that each response will require approximately 5 hours for preparing the reply comments.

1 reply comment x 5 hours = **5 hours**

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 \$88.24 per hour to comply with the requirement.

5 hours to prepare reply comments x \$88.24/hour = **\$441.20 (rounded to \$441)**

The Commission estimates that 50% of reply comments will be filed by outside counsel, in consultation with an in-house attorney.

2 reply comments x 50% = **1 reply comment filed using outside legal counsel**

The Commission estimates that each response will require approximately 1 hour for the consultation with outside counsel consulting on the reply comment.

1 reply comment x 1 hour = **1 hour**

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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 \$88.24 per hour to comply with the requirement.

1 hour to consult on reply comments x \$88.24/hour = **\$88.24 (rounded to \$88)**

Total Number of Respondents: 6 manufacturers + 12 parties filing comments/oppositions = **18 respondents**

Total Annual Number of Responses: 3 + 3 + 12 + 1 + 1 = **20 responses**

Total Annual Hourly Burden: 15 + 3 + 60 + 5 + 1 = **84 hours**

Total Annual "In House" Costs: \$1,324 + \$265 + \$5,294 + \$441 + \$88 = **\$7,412**

(f) Submission and review of consumer eligibility information pertaining to DIRECTV, LLC's waiver for provision of aural emergency information during The Weather Channel's programming.

- (1) Number of customer requests. The Commission estimates that 500 DIRECTV customers who are blind or visually impaired will request a set-top box model that is capable of providing aural emergency information. These customers may need to submit reasonable documentation of disability to DIRECTV to demonstrate that they are eligible for a set-top box model that is capable of providing aural emergency information at no additional cost.

500 customers x 1 request = **500 respondents, 500 responses**

- (2) Eligibility information provided by customer. The Commission estimates the average burden on each customer to obtain reasonable documentation of disability (e.g., documentation from any professional or service provider, such as a social worker, with direct knowledge of the individual's disability) and to submit such documentation to DIRECTV is approximately 0.5 hour.

500 customers x 0.5 hour/request = **250 hours**

Annual "In House" Hourly Costs: **\$0**

- (3) Review of eligibility information and recordkeeping by DIRECTV. The Commission expects that DIRECTV will use "in house" personnel to review and retain all documentation of disability submitted by customers who are blind or visually impaired used to determine whether DIRECTV is required to provide a set-top box model that is capable of providing aural emergency information.

500 customer requests = **500 requests reviewed by "in house" personnel**

The Commission estimates that an average of 0.5 hour will be needed for "in house" personnel to review and retain documentation of disability submitted by customers who are blind or visually impaired to determine whether DIRECTV is required to provide a set-top box model that is capable

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of providing aural emergency information.

500 customer requests x 0.5 hour = **250 hours**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-senior-level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$88.24 per hour.

250 hours x \$88.24/hour for “in house” staff = **\$22,060**

(4) **Annual Burden Hours:** 250 hours + 250 hours = **500 hours**

(5) **Annual “In House” Hourly Cost:** \$0 + \$22,060 = **\$22,060**

Total Number of Respondents:

45 viewers + 30 VPDs + 15 VPPs + 10 consumers + 10 manufacturers + 6 manufacturers + 6 manufacturers + 6 manufacturers + 12 parties filing comments/oppositions + 500 customers = **640 respondents**

Total Annual Number of Responses: 90 responses + 20 responses + 6 responses + 6 responses + 20 responses + 500 responses = **642 responses**

Total Annual Hourly Burden: 72 hours + 25 hours + 27 hours + 27 hours + 84 hours + 500 hours = **735 hours**

Total Annual “In House” Costs: \$3,713 + \$1,765 + \$2,382 + \$2,382 + \$7,412 + \$22,060 = **\$39,714**

13. Estimate of the total annual external/consulting cost burden to the respondents resulting from the collection of information:

(a) Complaints alleging violations of the emergency information rules.

In #12(a) above, the Commission assumes that an attorney (or other media professional) would prepare the response to 90% of the complaints received. The Commission also estimates that the professional will bill 1 hour per response. The professional is estimated to have an average billing rate of \$300/hour.

45 complaint responses x 1 hour/response x 90% x \$300/hour = **\$12,150**

(b) Complaints alleging violations of the apparatus emergency information and video description requirements.

In #12(b) above, the Commission estimates that 50% of 10 responses to complaints forwarded to manufacturers by the Commission will be prepared using outside legal counsel. The Commission estimates 3 hours will be needed to prepare and submit these responses, including responding to any Commission request for additional information. The Commission estimates that outside counsel will charge approximately \$300 per hour.

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50% of 10 responses = 5 responses x 3 hours = 15 hours x \$300 = **\$4,500**

(c) Requests for Commission determination of technical feasibility of emergency information and video description apparatus requirements.

In #12(c) above, the Commission estimates that 10% of the 6 requests that manufacturers file seeking Commission determinations as to whether it is technically feasible for certain apparatus to comply with the emergency information and video description apparatus requirements will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

10% of 6 requests = 1 request x 5 hours = 5 hours x \$300 = **\$1,500**

(d) Requests for Commission determination of achievability of emergency information and video description apparatus requirements.

In #12(d) above, the Commission estimates that 10% of the 6 requests that manufacturers file seeking Commission determinations as to whether it is achievable for certain apparatus to comply with the emergency information and video description apparatus requirements will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to prepare these requests. The Commission estimates that outside counsel will charge approximately \$300 per hour.

10% of 6 requests = 1 request x 5 hours = 5 hours x \$300 = **\$1,500**

(e) Petitions for purpose-based waivers of emergency information and video description apparatus requirements.

In #12(e) above, the Commission estimates that 50% of the 6 petitions for purpose-based waivers that manufacturers file will be prepared using outside legal counsel. The Commission estimates 5 hours will be needed to complete all aspects of each petition. The Commission estimates that outside counsel will charge approximately \$300 per hour.

50% of 6 petitions = 3 petitions x 5 hours = 15 hours x \$300 = **\$4,500**

(f) Submission and review of consumer eligibility information pertaining to DIRECTV, LLC's waiver for provision of aural emergency information during The Weather Channel's programming.

There are no outside costs for this requirement.

Total annualized capital/start-up cost: \$0

Total annual costs (operation and maintenance): \$12,150 + \$4,500 + \$1,500 + \$1,500 + \$4,500 + \$0 = **\$24,150**

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Total annualized cost requested: \$12,150 + \$4,500 + \$1,500 + \$1,500 + \$4,500 + \$0 = **\$24,150**

14. Estimates of annualized costs to the Federal government:

(a) Complaints alleging violations of the emergency information rules.

The Commission will use staff at the GS-14/Step 5 level (\$57.70/hour) to process these complaints and responses.¹² Processing of each complaint and associated response, including intake, complaint service, and review, is estimated at 3 hours per complaint.

45 complaints x \$57.70/hour x 3 hours/complaint = **\$7,789.50 (rounded to \$7,790)**

(b) Complaints alleging violations of the apparatus emergency information and video description requirements.

In #12(b) above, the Commission estimates that it will forward 10 complaints to manufacturers for a response. The Commission will use GS 13/5 (\$48.83) staff analysis to review and forward these informal complaints to manufacturers. The Commission estimates that this will require 1 hour per complaint.

10 complaints x 1 hour/complaint x \$48.83/hour = **\$488.30 (rounded to \$488)**

The Commission will use GS 15/5 (\$67.88) staff attorneys to review the responses and documents submitted by manufacturers. The Commission estimates that this will require 2 to 4 hours (average 3 hours) for this review per response.

10 responses x 3 hours/response x \$67.88/hour = **\$2,036.40 (rounded to \$2,036)**

(c) Requests for Commission determination of technical feasibility of emergency information and video description apparatus requirements.

In #12(c) above, the Commission estimates that manufacturers will file 6 requests seeking Commission determinations as to whether it is technically feasible for certain apparatus to comply with the emergency information and video description apparatus requirements.

The Commission will use GS 15/5 (\$67.88) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

6 requests x 5 hours/request x \$67.88/hour = **\$2,036.40 (rounded to \$2,036)**

(d) Requests for Commission determination of achievability of emergency information and video description apparatus requirements.

¹² The responses are filed as attachments to the complaints and not as separate documents.

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In #12(d) above, the Commission estimates that manufacturers will file 6 requests seeking Commission determinations as to whether it is achievable for certain apparatus to comply with the emergency information and video description apparatus requirements.

The Commission will use GS 15/5 (\$67.88) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

6 requests x 5 hours/request x \$67.88/hour = **\$2,036.40 (rounded to \$2,036)**

(e) Petitions for purpose-based waivers of emergency information and video description apparatus requirements.

In #12(e) above, the Commission estimates that manufacturers will file 6 petitions for purpose-based waivers.

The Commission will use GS 15/5 (\$67.88) staff attorneys to review the waiver petitions, comments/oppositions, and reply comments. The Commission estimates that this will require 5 hours for this review per petition.

6 requests x 5 hours/request x \$67.88/hour = **\$2,036.40 (rounded to \$2,036)**

(f) Submission and review of consumer eligibility information pertaining to DIRECTV, LLC's waiver for provision of aural emergency information during The Weather Channel's programming.

The Commission estimates no annual costs to the Federal government.

Total Cost to Federal Government: \$7,790 + \$488 + \$2,036 + \$2,036 + \$2,036 + \$2,036 + \$0 = \$18,458

15. The Commission has the following program changes to this collection as a result of the information collection requirements contained in FCC 13-45:

- (a) the Commission's estimate for the total number of respondents would increase by 590, from 50 respondents to 640 respondents;
- (b) the Commission's estimate for the total number of annual responses would increase by 592, from 50 to 642;
- (c) the Commission's estimate for the total annual burden hours would increase by 682, from 53 to 735; and
- (d) the Commission's estimate for the total annualized cost burden would increase \$17,400, from \$6,750 to \$24,150.

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- 16. The Commission does not intend to publish the results of these collections of information.
- 17. The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information.
- 18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

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