

SUPPORTING STATEMENT

**A. Justification:**

1. The Commission is submitting this revised information collection to transfer certain information collection burdens associated with this OMB control number to another OMB control number. This change is being made to reflect the development of an online form for use by consumers in filing complaints with the Commission that allege violations of the FCC's disability accessibility requirements.<sup>1</sup> The online form is part of an information collection reflected in OMB control number 3060-0874.

The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA)<sup>2</sup> directed the Commission to revise its regulations to mandate closed captioning on IP-delivered video programming that was published or exhibited on television with captions after the effective date of the regulations.<sup>3</sup> Accordingly, the Commission requires video programming owners (VPOs) to send program files to video programming distributors and providers (hereinafter VPDs) with required captions, and it requires VPDs to enable the rendering or pass through of all required captions to the end user.<sup>4</sup> The CVAA also directed the Commission to revise its regulations to mandate that all apparatus designed to receive, play back, or record video programming be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, except that apparatus that use a picture screen that is 13 inches or smaller and recording devices must comply only if doing so is achievable.<sup>5</sup> These rules are codified at 47 CFR §§ 79.4 and 79.100 – 79.104.

**The information collection requirements consist of:**

- (a) Mechanism for information about video programming subject to the IP closed captioning requirements.

Pursuant to 47 CFR §§ 79.4(c)(1)(ii) and (c)(2)(ii) of the Commission's rules, VPOs and VPDs must agree upon a mechanism to make information available to VPDs about video programming that becomes subject to the requirements of 47 CFR § 79.4 on an ongoing basis. VPDs must make a good faith effort to identify video programming that must be captioned when delivered

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<sup>1</sup> See *infra* #12(h). The information collection burdens associated with filing complaints with the Commission described in #12(d) were previously transferred to OMB control number 3060-0874.

<sup>2</sup> Pub. L. No. 111-260, 124 Stat. 2751 (2010).

<sup>3</sup> See CVAA at Title II, § 202(b). Closed captioning is the visual display of the audio portion of video programming that provides access to individuals who are deaf or hard of hearing. Previously existing regulations require the provision of closed captioning on video programming that is published or exhibited on television. See 47 CFR § 79.1.

<sup>4</sup> See *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-154, 27 FCC Rcd 787 (2012) (*Report and Order*).

<sup>5</sup> See CVAA at Title II, § 203. Previously existing regulations require closed caption decoder capability on certain apparatus. See 47 CFR §§ 15.119 and 15.122, redesignated and amended by the *Report and Order* as 47 CFR §§ 79.101 and 79.102. See also 47 CFR §§ 79.100, 79.103, and 79.104 adopted by the *Report and Order*.

using IP using the agreed upon mechanism.

For example, VPOs and VPDs may agree on a mechanism whereby the VPOs provide captions or certifications that captions are not required, and update those certifications and provide captions when captions later become required. A VPD may rely in good faith on a certification by a VPO that the programming need not be captioned: (1) if the certification includes a clear and concise explanation of why captions are not required; and (2) if the VPD is able to produce the certification to the Commission in the event of a complaint. VPOs may provide certifications for specific programming or a more general certification, for example, for all programming covered by a particular contract.

VPDs may seek Commission determinations that other proposed mechanisms provide adequate information for them to rely on in good faith by filing an informal request and providing sufficient information for the Commission to make such determinations.

(b) Contact information for the receipt and handling of written closed captioning complaints.

Pursuant to 47 CFR § 79.4(c)(2)(iii), VPDs must make their contact information available to end users for the receipt and handling of written IP closed captioning complaints. The required contact information includes the name of a person with primary responsibility for IP captioning issues and who can ensure compliance with these rules, as well as the person's title or office, telephone number, fax number, postal mailing address, and e-mail address. VPDs must keep this information current and update it within 10 business days of any change. The Commission expects that such contact information will be prominently displayed in a way that it is accessible to all end users. A general notice on the VPD's website with such contact information, if provided, must be provided in a location that is conspicuous to viewers.

(c) Petitions for exemption based on "economic burden."

Pursuant to 47 CFR § 79.4(d), a VPO or VPD may petition the Commission for a full or partial exemption from the closed captioning requirements for IP-delivered video programming based upon a showing that they would be economically burdensome. Petitions for exemption must be supported with sufficient evidence to demonstrate economic burden (significant difficulty or expense). The Commission will consider four specific factors when determining economic burden and any other factors the petitioner deems relevant, along with any available alternatives that might constitute a reasonable substitute for the closed captioning requirements. Petitions and subsequent pleadings must be filed electronically.

The Commission will place such petitions on public notice. Comments or oppositions to the petition may be filed electronically within 30 days after release of the public notice of the petition, and must include a certification that the petitioner was served with a copy. The petitioner may reply to any comments or oppositions filed within 20 days after the close of the period for filing comments or oppositions, and replies must include a certification that the commenting or opposing party was served with a copy. Upon a finding of good cause, the Commission may lengthen or shorten any comment period and waive or establish other procedural requirements. Petitions and responsive pleadings must include a detailed, full showing, supported by affidavit, of any facts or considerations relied on.

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- (d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

Pursuant to 47 CFR § 79.4(e), a written complaint alleging a violation of the closed captioning rules for IP-delivered video programming may be filed with the Commission or with the VPD responsible for enabling the rendering or pass through of the closed captions for the video programming. Complaints must be filed within 60 days after the date the complainant experienced a problem with captioning. Such complaints should (but are not required to) include certain information.

If a complaint is filed first with the VPD, the VPD must respond in writing to the complainant within 30 days after receipt of a closed captioning complaint. If a VPD fails to respond timely, or the response does not satisfy the consumer, the complainant may re-file the complaint with the Commission within 30 days after the time allotted for the VPD to respond. If a consumer re-files the complaint with the Commission (after filing with the VPD) and the complaint satisfies the requirements, the Commission will forward the complaint to the named VPD, and to any other VPD and/or VPO that Commission staff determines may be involved, who then must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

If a complaint is filed first with the Commission and the complaint satisfies the requirements, the Commission will forward the complaint to the named VPD and/or VPO, and to any other VPD and/or VPO that Commission staff determine may be involved, who must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission. In response to a complaint, a VPD and/or VPO must provide the Commission with sufficient records and documentation. The Commission will review all relevant information provided by the complainant and the subject VPDs and/or VPOs, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant entities when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violation(s) of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

Pursuant to 47 CFR § 79.103(a), as of January 1, 2014, all digital apparatus designed to receive or play back video programming that uses a picture screen of any size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, if *technically feasible*. If new apparatus or classes of apparatus for viewing video programming emerge on which it would not be technically feasible to include closed captioning, parties may raise that argument as a defense to a complaint or, alternatively, file a request under 47 CFR § 1.41 for a Commission determination of technical feasibility before manufacturing or importing the product.<sup>6</sup>

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

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<sup>6</sup> See 47 CFR § 1.41 (permitting parties to file informal requests for Commission action, based on a clear and concise showing of the facts relied on, relief sought, among other requirements).

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Pursuant to 47 CFR § 79.103(a), as of January 1, 2014, all digital apparatus designed to receive or play back video programming that use a picture screen less than 13 inches in size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, only if doing so is *achievable*. In addition, pursuant to 47 CFR § 79.104(a), as of January 1, 2014, all apparatus designed to record video programming must enable the rendering or the pass through of closed captions such that viewers are able to activate and de-activate the closed captions as the video programming is played back, only if doing so is *achievable*.

Manufacturers of such apparatus may petition the Commission, pursuant to 47 CFR § 1.41, for a full or partial exemption from the closed captioning requirements before manufacturing or importing the apparatus or may assert as a response to a complaint that these requirements, in full or in part, are not achievable. Pursuant to 47 CFR § 79.103(b)(3), such a petition or response must be supported with sufficient evidence to demonstrate that compliance is not achievable (meaning with reasonable effort or expense) and the Commission will consider four specific factors when making such determinations. In evaluating evidence offered to prove that compliance was not achievable, the Commission will be informed by the analysis in the *ACS Order*.<sup>7</sup>

(g) Petitions for purpose-based waivers of apparatus closed caption requirements.

Manufacturers seeking certainty prior to the sale of a device may petition the Commission, pursuant to 47 CFR § 79.103(b)(4), for a full or partial waiver of the closed captioning requirements based on one of the following provisions:

- (i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or
- (ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

Petitions for waiver filed pursuant to this section are generally put on public notice for comment or opposition.

(h) Complaints alleging violations of the apparatus closed caption requirements.

Consumers may file written complaints alleging violations of the Commission's rules, 47 CFR §§ 79.101 – 79.104, requiring apparatus designed to receive, play back, or record video programming to be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captions. A written complaint filed with the Commission must be transmitted to the Consumer and Governmental Affairs Bureau through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. Such complaints should include certain information about the complainant and the alleged violation.<sup>8</sup> The Commission may forward such complaints to the named manufacturer or provider, as well as to any other

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<sup>7</sup> 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*, 26 FCC Rcd 14557, 14607-14619, ¶¶ 119-148 (2011) (*ACS Order*).

<sup>8</sup> *Report and Order*, 27 FCC Rcd at 859-60, para. 123.

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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.

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 (the Act), 47 U.S.C. §§ 154(i), 154(j), 303, 330(b), 613, and 617.

2. VPDs will use the information provided by VPOs on an ongoing basis through certifications or other mechanisms to determine whether captions are required for the video programming they deliver using IP. The Commission will use the information submitted by a VPD to determine whether a proposed mechanism provides adequate information about whether captions are required for the VPD to rely on in good faith. Consumers will use the contact information of and provided by VPDs to file written IP closed captioning complaints. The information submitted as part of, or in response to, a petition for exemption pursuant to 47 CFR § 79.4(d) will be used by the Commission to determine whether an “economically burdensome” exemption is warranted. VPDs will use the information provided by consumers in IP closed captioning complaints to investigate and resolve such complaints. The Commission will use the information provided by consumers in IP closed captioning complaints filed under 47 CFR § 79.4(e) and responses provided by VPOs and VPDs to enforce 47 CFR § 79.4. The Commission will use the information submitted by a party to determine whether it is technically feasible for new apparatus or classes of apparatus for viewing video programming to comply with the closed caption requirements. The Commission will use the information submitted by a manufacturer to determine whether it is achievable for apparatus designed to receive or play back video programming and that use a picture screen that is 13 inches or smaller, or designed to record video programming to comply with the apparatus closed caption requirements. The Commission will use the information submitted by manufacturers or others to determine whether to grant a full or partial purpose-based waiver of the closed caption requirements for certain apparatus. Finally, the Commission will use the information provided by consumer complaints and responses provided by manufacturers to enforce the Commission’s apparatus closed caption requirements.

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

- (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://www.fcc.gov/omd/privacyact/Privacy\\_Impact\\_Assessment.html](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 also published a system of records notice (SORN), FCC/CGB-1, “Informal Complaints, Inquiries, and Requests for Dispute Assistance,” in the *Federal Register* on August 15, 2014 (79 FR 48152), which became effective on September 24, 2014. NOTE: The Commission will update the PIA to cover the PII collected related to this information collection to incorporate various revisions to it as a result of revisions to the SORN and as required by OMB’s Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.

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3. VPOs and VPDs may agree on any method for transmitting information or certifications about program caption requirements on an ongoing basis, including automated or electronic transmissions. The contact information for VPDs may be provided by any method, including through a general notice on the VPD's website. Petitions requesting an exemption based on the economically burdensome standard and subsequent pleadings must be filed electronically with the Commission. Once placed on public notice, comments, oppositions, or replies relating to petitions for exemption may be transmitted electronically to the Commission. Written complaints about IP closed captioning may be submitted through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. Complainants may indicate the preferred format or method of response to the complaint, such as letter, facsimile transmission, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant. Requests for Commission determination of technical feasibility or achievability of apparatus closed caption requirements may be filed pursuant to 47 CFR § 1.41. Petitions for purpose-based waivers of the apparatus closed caption requirements are expected to be transmitted by U.S. Mail or overnight delivery. Finally, written complaints alleging violations of the apparatus closed caption requirements may be submitted through the Commission's online informal complaint filing system, U.S. Mail, overnight delivery, or facsimile. Commission staff may assist consumers with disabilities with the filing of written complaints. The Commission's overall purpose is to make the filing of such complaints as easy as possible for consumers.
4. No other agency imposes similar information collections on the respondents. There is no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, we are making an effort to minimize the public burden for small business concerns, including those with fewer than 25 employees.

For example, the Commission requires VPOs and VPDs to agree upon a mechanism to inform such VPDs on an ongoing basis whether video programming is subject to the IP closed captioning requirements. The Commission considered and rejected adopting a single specific mechanism that could impose greater information collection burdens on small businesses. The Commission also permits VPOs and VPDs to request a full or partial exemption from our IP closed captioning requirements when those requirements are economically burdensome. While there is some burden associated with requesting an exemption, when granted, an exemption will relieve the entity from complying with the IP closed captioning requirements. In addition, the Commission permits consumers to file written complaints alleging a violation of the IP closed captioning rules with the Commission or with VPDs and requires VPDs to publish their contact information for this purpose. When a complaint is filed with a VPD, the VPD must reply within 30 days. While this complaint procedure imposes an information collection burden, the requirement to publish contact information and respond to consumer complaints provides an opportunity to resolve complaints without Commission involvement, thereby minimizing the information collection burdens on small business concerns, including businesses with fewer than 25 employees.

The Commission also requires all digital apparatus designed to receive or play back video programming that uses a picture screen of any size to be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, 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

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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, we provide procedural guidance for consumers to file written complaints with the Commission alleging violations of the closed caption decoder and display capability requirements. These complaint procedures provide us 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. These information collections are necessary for us to carry out the purposes of and to comply with the CVAA. Completion of these information collections will ensure that the closed captioning mandated by Congress under sections 303(u), 303(z), 330(b), and 713 of the Communications Act of 1934, as amended by the CVAA, will provide individuals with disabilities with better access to video programming.

For example, if these information collections are not completed, VPDs will not be informed about video programming that must be captioned when delivered using IP. Further, individuals with disabilities may be unable to contact VPDs to report and resolve IP closed captioning problems, resulting in greater numbers of complaints being directed to the Commission. In addition, these requirements enable us to investigate complaints alleging violations of and to enforce the IP closed captioning rules.

Without these requirements, we would not be able to exercise our authority to exempt entities from IP closed captioning obligations that are economically burdensome. In addition, these requirements enable us to provide greater certainty to apparatus manufacturers about what closed captioning capabilities are technically feasible or achievable. Moreover, without these requirements, we would be unable to exercise our authority to waive the closed captioning 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. Finally, these requirements provide individuals with disabilities a mechanism to file informal apparatus closed captioning complaints with us for enforcement of our rules.

7. The collections are not being conducted in any manner inconsistent with 5 CFR Part 1320.
8. The Commission published a notice in the *Federal Register* seeking comments from the public on the requirements contained in this supporting statement. See 83 FR 27773 on June 14, 2018. No comments were received from the public regarding the information collection requirements.
9. No payment or gift will be provided to respondents.
10. Some assurances of confidentiality are being provided to the respondents.

Parties filing petitions for exemption based on economic burden, 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.<sup>9</sup>

We are not requesting that individuals who file complaints alleging violations of our rules (complainants) submit confidential information (*e.g.*, credit card numbers, social security numbers, or personal financial information) to us. We request that complainants submit their names, addresses, and other contact information, which enables us to process complaints. Any use of this information is covered under the routine uses listed in the Commission's SORN, FCC/CGB-1, "Informal Complaints, Inquiries, and Requests for Dispute Assistance."

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](http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html).

Also, as stated in #2, above, we will update the PIA to cover the PII collected related to this information collection to incorporate various revisions to it as a result of revisions to the SORN and 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. Public burden estimates:

For purposes of making these estimates, we assume that there is a total of 50 video programming owners (VPOs),<sup>10</sup> 545 video programming distributors and providers (VPDs),<sup>11</sup> and 65 manufacturers of apparatus that receive, play back, or record video programming.<sup>12</sup>

(a) Mechanism for information about video programming subject to the IP closed captioning requirements.

VPOs and VPDs must agree upon a mechanism to make information available to the VPDs about

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<sup>9</sup> See 47 CFR § 0.459.

<sup>10</sup> We believe this is a reasonable estimate of the total number of people or entities that either: (i) license the video programming to a video programming distributor or provider that makes the video programming available directly to the end user through a distribution method that uses IP; or (ii) act as the video programming distributor or provider, and also possess the right to license the video programming to a video programming distributor or provider that makes the video programming available directly to the end user through a distribution method that uses IP. See *Report and Order*, 27 FCC Rcd at 868 (Appendix B, § 79.4(a)(4)). In making this estimate, we have taken into account our knowledge of the total number of studios and smaller content owners.

<sup>11</sup> We believe this is a reasonable estimate of the total number of people or entities that make available directly to the end user video programming through a distribution method that uses IP. See *Report and Order*, 27 FCC Rcd at 868 (Appendix B, § 79.4(a)(3)). In making this estimate, we have taken into account our knowledge of the total number of television stations, cable operators, direct broadcast satellite service providers, and others who make IP-delivered video programming that has been published or exhibited on television available directly to end users.

<sup>12</sup> We believe this is a reasonable estimate of the total number of manufacturers of apparatus that receive, play back, or record video programming. This is based in part on a study of manufacturers exhibiting at the industry's largest trade show and other information in the record identifying entities that would be subject to these rules.

video programming that becomes subject to the IP closed captioning requirements on an ongoing basis. For example, VPOs and VPDs may agree on a mechanism whereby the VPOs provide the captions or certifications that captions are not required, and update those certifications and provide captions when captions later become required. VPDs may seek Commission determinations that other proposed mechanisms provide adequate information for them to rely on in good faith by filing an informal request and providing sufficient information for the Commission to make such determinations.

- (1) We estimate that **50 VPOs** will send an average of 20 certifications each to VPDs per year. We expect the VPO will need 0.25 hours (15 minutes) to complete and send each certification. This work will be done “in house” using the VPO’s staff at \$48.08 per hour.

50 VPOs x 20 certifications/VPO = **1,000 certifications sent annually**

1,000 certifications x 0.25 hours/certification = **250 hours**

250 hours x \$48.08/hour = **\$12,020**

- (2) We estimate that 1,000 annual certifications will be sent to approximately **245 of the 545 VPDs**.<sup>13</sup> We expect VPDs will require 0.084 hours (five minutes) to file and retain each certification. This work will be completed “in house” at \$26.00 per hour.

**1,000 certifications received annually**<sup>14</sup>

1,000 certifications x 0.084 hours/certification = **84 hours**

84 hours x \$26.00/hour = **\$2,184**

- (3) We estimate that annually **10 of the 545 VPDs** will file informal requests seeking Commission determinations that other proposed mechanisms provide adequate information for them to rely on in good faith. We expect that five (5) of the requests are prepared “in house” at \$48.08 per hour requiring five (5) hours per request. In addition, we estimate 5 of the requests will be prepared using outside legal counsel. VPDs will spend two (2) hours per request to coordinate with their outside legal counsel to prepare and submit the request.

5 requests x 5 hours x \$48.08 hour = **\$1,202**

5 requests x 2 hours x \$48.08/hour = **\$480.80 (rounded to \$481)**

**Total Number of Respondents:** 50 VPOs + 245 VPDs + 10 VPDs = **305 respondents**

**Total Annual Number of Responses:** 1,000 certifications + 10 requests = **1,010**

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<sup>13</sup> The Commission assumes that many VPDs will not receive certifications, but will be informed about video programming that is subject to 47 CFR § 79.4 through other mechanisms. Of the estimated 545 VPDs, we estimate that about 245 VPDs will receive certifications.

<sup>14</sup> The number of responses assessed for this requirement is already accounted for in the number of certifications sent annually.

responses

**Total Annual Hourly Burden:**  $250 + 84 + 25 + 10 = 369$  hours

**Total Annual “In House” Costs:**  $\$12,020 + \$2,184 + \$1,202 + \$481 = \$15,887$

- (b) Contact information for the receipt and handling of written closed captioning complaints.

VPDs must make their contact information available to end users for the receipt and handling of written IP closed captioning complaints. A general notice on the VPD’s website with such contact information, if provided, must be provided in a location that is conspicuous to viewers. VPDs must keep this information current and update it within 10 business days of any change. We estimate that **545 VPDs** will provide and maintain their contact information as required<sup>15</sup> and each will spend approximately 0.50 hours (30 minutes) per year for this work. We expect the respondents use “in house” personnel at \$26.00 per hour.

**Total Number of Respondents:** 545 respondents

**Total Number of Responses:** 545 responses

**Total Annual Hourly Burden:**  $545 \times 0.50$  hours = 272.50 hours (rounded to 273)

**Total Annual “In House” Costs:**  $273$  hours  $\times$   $\$26.00/\text{hour} = \$7,098$

- (c) Petitions for exemption based on “economic burden.”

(1) We estimate that **6 VPDs or VPOs** will file **6 petitions** annually requesting exemption from the IP closed captioning requirements. We estimate that 3 petitions will be filed using “in house” personnel at five (5) hours per petition. We expect respondents use “in house” personnel at \$48.08 per hour. In addition, we estimate VPDs and VPOs will spend six (6) hours with outside legal counsel to prepare and file each of the three (3) other petitions. The respondents will use “in house” personnel at \$48.08 per hour.

$3$  petitions  $\times$   $5$  hours/petition = **15 hours**

$15$  hours  $\times$   $\$48.08/\text{hour} = \$721.20$  (rounded to \$721)

$3$  petitions  $\times$   $2$  hours = **6 hours to consult with outside legal counsel**

$6$  hours  $\times$   $\$48.08/\text{hour} = \$288.48$  (rounded to \$288)

- (2) We estimate that one (1) commenter will file comments or oppositions for each petition, for a

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<sup>15</sup> The estimate of 545 VPDs is intended to include all potential VPDs, and thus this estimate is over inclusive.

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total of **six (6) commenters**. We estimate that all 6 comments will be prepared using pro bono outside legal counsel. The respondent will require two (2) hours to consult with pro bono outside legal counsel.

6 petitions filed by VPDs or VPOs x 1 comment/petition = **6 comments**

6 comments x 2 hours = **12 hours to consult with pro bono outside counsel**

12 hours x \$48.08/hour = **\$576.96 (rounded to \$577)**

(3) We estimate that petitioners will file replies to one-third of the comments and oppositions, for a total of two (2) replies annually. The hourly burdens for replies are already included in 12(c)(1).

**Total Number of Respondents:** 6 VPDs or VPOs + 6 commenters = **12 respondents**

**Total Annual Number of Responses:** 3 petitions + 3 petitions + 6 comments + 2 replies = **14 responses**

**Total Annual Hourly Burden:** 15 + 6 + 12 = **33 hours**

**Total Annual “In House” Costs:** \$721 + \$288 + \$577 = **\$1,586**

(d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

A written complaint alleging a violation of the closed captioning rules for IP-delivered video programming may be filed with the Commission or with the VPD responsible for enabling the rendering or pass through of the closed captions for the video programming. If a complaint is filed first with the VPD, and the VPD fails to respond timely, or the response does not satisfy the consumer, the complainant may re-file the complaint with the Commission. If the complaint satisfies the requirements, we will forward the re-filed complaint to the named VPD, and to any other VPD and/or VPO that we determine may be involved, who then must respond in writing to the Commission and the complainant. If a complaint is filed first with the Commission and the complaint satisfies the requirements, we will forward the complaint to the named VPD and/or VPO, and to any other VPD and/or VPO that we determine may be involved, who must respond to the Commission and the complainant. In response to a complaint, a VPD and/or VPO must provide the Commission with sufficient records and documentation.

(1) Complaint respondents. We estimate that 500 complaints will be filed first with VPDs.<sup>16</sup> To be most inclusive in our estimates, we assume that each complaint will be filed by a unique consumer, and that these complaints will be filed against 119 (20%) of the total universe of 595 VPOs and VPDs.

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<sup>16</sup> Of these 500 complaints, we estimate that 400 will be resolved to the satisfaction of the complainants, 75 of the unresolved complaints will not be re-filed with the Commission, and 25 of the unresolved complaints will be re-filed with the Commission. We further estimate that an additional 50 complaints will be filed directly with the Commission. The number of respondents and burdens associated with filing complaints with the Commission are currently included in information collection OMB control number 3060-0874 (as general complaints). .

**Respondents:** 500 unique consumers + 119 unique VPDs and VPOs = **619**

- (2) Complaints. We estimate that 500 complaints will be filed with VPDs.<sup>17</sup> Each complainant will require approximately 0.50 hours (30 minutes) preparation time.

500 complaints filed with VPDs = **500 responses**

500 responses x 0.50 hour/complaint = **250 hours**

Annual “In House” Costs: **\$0**

- (3) Responses to complaints. The Commission assumes that VPDs and VPOs will respond to each complaint. In this information collection, we include the burdens for responding to all complaints, including those filed or re-filed with the FCC.<sup>18</sup> Accordingly, we include a response to each of the 500 complaints filed first with VPDs and resolved, the 25 complaints filed first with VPDs but unresolved and re-filed with the FCC, and the 50 complaints filed first with the FCC, for a total of **575 responses to complaints**.

We expect that VPDs will use “in house” personnel at \$48.08 per hour to prepare responses to 500 of these complaints. Response time is three (3) hours per complaint. We expect that VPDs and VPOs will use outside legal counsel to respond to the remaining 75 complaints. VPDs and VPOs are likely to spend an average of 1 hour per complaint to coordinate with their outside legal counsel to prepare and submit the response.

500 responses to complaints x 3 hours/response = **1,500 hours**

1,500 hours x \$48.08/hour = **\$72,120**

75 responses to complaints x 1 hour/response = **75 hours to consult with outside legal counsel**

75 hours x \$48.08/hour for “in house” staff = **\$3,606**

- (4) Recordkeeping in support of complaint responses. We estimate that the recordkeeping burden to enable making information available upon request to the Commission is 10 hours for each VPD or VPO.<sup>19</sup> The VPDs and VPOs will perform these activities “in house” at \$26.00 per hour.

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<sup>17</sup> See *supra* note 16.

<sup>18</sup> See *supra* note 16. While the number of respondents and burdens associated with filing complaints with the Commission are maintained in information collection OMB control number 3060-0874, the number of respondents and burdens associated with responding to complaints is retained in this information collection.

<sup>19</sup> The Commission considers all of these recordkeeping and information provision requirements to constitute one response per VPD or VPO, or one set of records kept per VPD or VPO, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

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50 VPOs + 545 VPDs = **595 respondents**<sup>20</sup> and **595 responses** (sets of records)

595 responses x 10 hours/recordkeeping = **5,950 hours**

5,950 hours x \$26.00/hour = **\$154,700**

**Total Number of Respondents: 619 respondents (complaints and responses)** (500 unique consumers + 119 unique VPDs and VPOs) and **595 respondents (recordkeeping)**

**Total Annual Number of Responses: 500 complaints + 575 responses + 595 sets of records = 1,670**

**Total Annual Hourly Burden: 250 + 1,500 + 75 + 5,950 = 7,775**

**Total Annual "In House" Costs: \$0 + \$72,120 + \$3,606 + \$154,700 = \$230,426**

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

As of January 1, 2014, all digital apparatus designed to receive or play back video programming that uses a picture screen of any size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, if *technically feasible*. Manufacturers may file a request under 47 CFR § 1.41 for a Commission determination of technical feasibility before manufacturing or importing the product.

We estimate that **1 of the estimated 65 manufacturers** will file a single request annually requesting a determination that the closed caption requirements are not technically feasible. We estimate that this request will be prepared using outside legal counsel, *e.g.*, attorneys in private law firms. This will require two (2) hours at \$48.08 per hour to coordinate with outside legal counsel to prepare and submit the request.

1 request x 2 hours/request = **2 hours to consult with outside legal counsel**

2 hours x \$48.08/hour = **\$96.16 (rounded to \$96)**

**Total Number of Respondents: 1 manufacturer**

**Total Annual Number of Responses: 1 request**

**Total Annual Hourly Burden: 2 hours**

**Total Annual "In House" Costs: \$96**

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

As of January 1, 2014, all digital apparatus designed to receive or play back video programming

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<sup>20</sup> The estimate of 595 (50 VPOs and 545 VPDs) is intended to include all potential VPOs and VPDs, and thus this estimate is over inclusive.

that uses a picture screen of less than 13 inches size must be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming, and all apparatus designed to record video programming must enable the rendering or the pass through of closed captions, if doing so is *achievable*. Manufacturers of such apparatus may petition the Commission, pursuant to 47 CFR §1.41, for a full or partial exemption from the closed captioning requirements. Such a petition must be supported with sufficient evidence to demonstrate that compliance is not achievable (meaning with reasonable effort or expense) and the Commission will consider four specific factors when making such determinations.

We estimate that **1 of the estimated 65 manufacturers** will file a single request annually requesting a determination that the closed caption requirements are not achievable. We estimate that this request will be prepared using outside legal counsel. This will require two (2) hours per request at \$48.08 per hour to coordinate with outside legal counsel to prepare and submit the request.

1 request x 2 hours/request = **2 hours to consult with outside legal counsel**

2 hours x \$48.08/hour for “in house” staff = **\$96.16 (rounded to \$96)**

**Total Number of Respondents: 1 manufacturer**

**Total Annual Number of Responses: 1 response**

**Total Annual Hourly Burden: 2 hours**

**Total Annual “In House” Costs: \$96**

(g) Petitions for purpose-based waivers of apparatus closed caption requirements.

Manufacturers of apparatus may petition the Commission for a full or partial waiver of the closed captioning requirements based on one of the following provisions:

- (i) The apparatus is primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or
- (ii) The apparatus is designed for multiple purposes, capable of receiving or playing back video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

Petitions for waiver filed pursuant to this section are generally put on public notice for comment or opposition.

We estimate that **1 of the estimated 65 manufacturers** will file a 1 petition for a purpose-based waiver. We expect that the purpose-based waiver request will be prepared using outside legal counsel. The respondent will spend one (1) hour at \$48.08 per hour to coordinate with outside legal counsel.

1 petition x 1 hour/request = **1 hour to consult with outside legal counsel**

1 hours x \$48.08/hour = **\$48.08 (rounded to \$48)**

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We estimate that up to **6 comments or oppositions** will be filed by interested parties for each waiver petition. We estimate that each response will be prepared in-house and will require approximately 5 hours at \$48.08 per hour for the submission of a comment or opposition.

6 interested parties filing comments/oppositions x 1 waiver petition = **6 responses**

6 comments/oppositions x 5 hours = **30 hours**

30 hours to submit comments or oppositions x \$48.08/hour = **\$1,442.40 (\$1,442 rounded)**

We estimate that up to **3 respondents** (the petitioner and/or commenters) will file reply comments. Of those 3 reply comments, we estimate that 66% (2 reply comments) will be filed by an in-house attorney. We estimate that each response will require approximately 5 hours at \$48.08/hour for preparing the reply comments. We estimate that the remaining 1 reply comment will be filed using outside counsel. The reply commenter will spend one (1) hour at \$48.08 per hour to coordinate with outside legal counsel

2 replies x 5 hours = **10 hours**

10 hours to prepare reply comments x \$48.08/hour = \$480.08 (**\$480 rounded**)

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

1 hour to consult on reply comment x \$48.08/hour = \$48.08 (**\$48 rounded**)

**Total Number of Respondents:** 1 manufacturer + 6 commenters/reply commenters = **7 respondents**

**Total Annual Number of Responses:** 1 petition + 6 comments + 3 reply comments = **10 responses**

**Total Annual Hourly Burden:** 1 + 30 + 10 + 1 = **42 hours**

**Total Annual "In House" Costs:** \$48 + 1,442 + \$480 + 48 = **\$2,018**

(h) Complaints alleging violations of the apparatus closed caption requirements.

Consumers may file written complaints alleging violations of the closed captioning rules for apparatus designed to receive, play back, or record video programming. We may forward such complaints to the named manufacturer or provider, or to any other entity that we determine may be involved. We may request additional information from any relevant parties when such information is needed to investigate the complaint or adjudicate potential violations of Commission rules.

Complaint respondents and complaints. We estimate that 25 complaints will be filed with the Commission by 25 unique consumers against 13 (20%) of the total universe of manufacturers.<sup>21</sup>

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<sup>21</sup> The number of respondents and burdens associated with filing complaints with the Commission will be included in information collection OMB control number 3060-0874 (as general complaints).

13 unique manufacturers = **13 respondents**

Responses to complaints. We will forward complaints to the manufacturer and expect the manufacturer will respond to each complaint. The manufacturers will use “in house” personnel at \$48.08 per hour to respond to 13 of the complaints. We expect this work to require three (3) hours to respond to a complaint, including responding to any Commission request for additional information. In addition, we expect manufacturers will use one (1) hour working with outside legal counsel to respond to the remaining 12 complaints.

**13 responses to complaints prepared by “in house” personnel**

13 responses x 3 hours/response = **39 hours**

39 hours x \$48.08/hour = **\$1,875.12 (rounded to \$1,875)**

**12 responses to complaints prepared by outside legal counsel**

12 responses x 1 hour/response = **12 hours to consult with outside legal counsel**

12 hours x \$48.08/hour for “in house” staff = **\$576.96 (rounded to \$577)**

Recordkeeping in support of complaint responses. We estimate an annual burden of 10 hours for each manufacturer to perform recordkeeping to enable making information available upon request to the Commission.<sup>22</sup> This work will be performed “in house” at \$26.00 per hour

65 manufacturers = **65 respondents<sup>23</sup>** and **65 responses** (sets of records)

65 responses x 10 hours/recordkeeping = **650 hours**

650 hours x \$26.00/hour = **\$16,900**

**Total Number of Respondents: 13 respondents (responses to complaints)** (13 unique manufacturers) and **65 respondents (recordkeeping)**

**Total Annual Number of Responses: 25 responses + 65 sets of records = 90 responses**

**Total Annual Hourly Burden: 39 + 12 + 650 = 701 hours**

**Total Annual “In House” Costs: \$1,875 + \$577 + \$16,900 = \$19,352**

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<sup>22</sup> The Commission considers all of these recordkeeping and information provision requirements to constitute one response per manufacturer, or one set of records kept per manufacturer, with the 10 hours per response encompassing the burdens associated with fulfilling these requirements.

<sup>23</sup> The estimate of 65 is intended to include all potential manufacturers, and thus this estimate is over inclusive.

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**TOTAL INFORMATION COLLECTION REQUIREMENTS:**

<b>Information Collection</b>	<b>Respondents<sup>24</sup></b>	<b>Estimated Annual Number of Responses</b>	<b>Estimated Annual Burden Hours Per Response</b>	<b>Annual Burden Hours</b>	<b>Total Annual "In House" Costs</b>
(a) Mechanism for information	50 VPOs + 245 VPDs + 10 VPDs	1,010	0.084 (5 minutes) – 5 hours	369	\$15,887
(b) Contact information	545 VPDs	545	0.50 hours	273	\$7,098
(c) Petitions for exemption	6 VPDs or VPOs + <b>6 commenters</b>	14	2 – 5 hours	33	\$1,586
(d) Complaints (IP closed captioning)	<b>500 consumers</b> + 119 VPDs and VPOs + <b>595 VPDs and VPOs</b>	1,670	0.50 (30 minutes) – 10 hours	7,775	\$230,426
(e) Requests for technical feasibility determinations	1 manufacturer	1	2 hours	2	\$96
(f) Requests for achievability determinations	1 manufacturer	1	2 hours	2	\$96
(g) Petitions for purpose-based waivers	1 manufacturer + <b>6 commenters</b>	10	1 – 5 hours	42	\$2,018
(h) Complaints (apparatus closed caption requirements)	13 manufacturers + <b>65 manufacturers</b>	90	1 – 10 hours	701	\$19,352
<b>Totals</b>	6 commenters + 500 consumers +	<b>3,341</b>	<b>0.084 – 10 hours</b>	<b>9,197</b>	<b>\$276,559</b>

<sup>24</sup> The total number of 1,172 respondents is calculated to include and report only unique individual respondents that are not otherwise accounted for in this information collection. In other words, the total number of unique individual respondents are 6 commenters filing responses to petitions for economic burden waivers; 500 consumers filing complaints with VPDs and/or with the Commission; estimated total of 545 VPDs and 50 VPOs (595 VPDs and VPOs); 6 commenters filing comments or oppositions to purpose-based waiver petitions; and the estimated total of 65 manufacturers.

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	595 VPDs and VPOs + 6 commenters + 65 manufacturers = <b>1,172</b>				
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13. Annual cost burden (excluding the value of the burden hours in #12, above).

**Total annualized capital/start-up costs: None**

**Total annual cost (operational and maintenance): \$95,700**

**Total annualized cost requested: \$95,700**

(a) Mechanism for information about video programming subject to the IP closed captioning requirements.

In #12(a)(3), above, we estimated that outside legal counsel annually will file five (5) informal requests seeking Commission approval of an alternative mechanism. We estimate that this task will require five (5) hours per request, and that outside counsel will charge approximately \$300 per hour.

5 requests x 5 hours = 25 hours x \$300 = \$7,500

(b) None.

(c) Petitions for exemption based on “economic burden.”

In #12(c), above, we estimated three (3) petitions will be filed using outside counsel (\$300 per hour) and we estimate that five (5) hours are required per petition.

3 requests x 5 hours x \$300 = \$4,500

(d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

In #12(d), above, we estimated 75 responses to complaints forwarded to VPDs and VPOs will be prepared using outside legal counsel (\$300 per hour). Three (3) hours is needed for this work.

75 responses x 3 hours x \$300 = \$67,500

(e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

In #12(e), above, we estimated one (1) request will be filed using outside legal counsel (\$300 per hour). Five (5) hours is needed to prepare this request.

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1 request x 5 hours x \$300 = \$1,500

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

In #12(f), above, we estimated one (1) request will be filed using outside legal counsel (\$300 per hour). Five (5) hours are needed to prepare this request.

1 request x 5 hours x \$300 = \$1,500

- (g) Petitions for purpose-based waivers of apparatus closed caption requirements.

In #12(g), above, we estimated that one (1) of the petition for purpose-based waivers that manufacturers file will be prepared using outside legal counsel (\$300 per hour). Five (5) hours are needed to prepare each such petition.

1 petition x 5 hours x \$300 = \$1,500

We also estimated that one (1) of the reply comments will be prepared using outside legal counsel (\$300 per hour). Three (3) hours are needed to prepare each such reply.

1 reply comment x 3 hours x \$300 = \$900

- (h) Complaints alleging violations of the apparatus closed caption requirements.

In #12(h), above, we estimated that 12 responses to complaints will be prepared using outside legal counsel (\$300 per hour). Three (3) hours are needed to prepare and submit each such response.

12 responses x 3 hours x \$300 = \$10,800

14. Estimates of annualized costs to the Federal government:<sup>25</sup>

**Total Cost to Federal Government: \$37,840.80**

- (a) Mechanism for information about video programming subject to the IP closed captioning requirements.

In #12(a) above, we will use GS 15/5 (\$68.56) staff attorneys to review requests for Commission determinations regarding proposed mechanisms. Processing time is five (5) hours per request.

10 requests x 5 hours/request x \$68.56/hour = \$3,428

- (b) None.

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<sup>25</sup> Generally, each request or petition and its associated records will be part of a single proceeding, and each complaint and its associated records will be part of a single proceeding. The burden estimates in this section consider the total time Commission staff would allocate to each such proceeding.

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- (c) Petitions for exemption based on “economic burden.”

In #12(c), above, we will use GS 15/5 (\$68.56) staff attorneys to review these petitions and related filings. Processing time is five (5) hours per petition.

14 documents x 5 hours x \$68.56/hour = \$4,799.20

- (d) Complaints alleging violations of the closed captioning rules for IP-delivered video programming.

In #12(d), above, we will use GS 13/5 (\$49.32) staff analysts to review and forward complaints to VPDs and VPOs. Processing time is one (1) hour per complaint.

75 complaints x 1 hour x \$49.32/hour = \$3,699

In addition, we will use GS 15/5 (\$68.56) staff attorneys to review complaint responses and related documents. We estimate an average 3 hours per complaint response.

75 responses x 3 hours/responses x \$68.56/hour = \$15,426

- (e) Requests for Commission determination of technical feasibility of apparatus closed caption requirements.

In #12(e), above, we will use GS 15/5 (\$68.56) staff attorneys to review these requests. Processing time is 5 hours per request.

1 request x 5 hours x \$68.56/hour = \$342.80

- (f) Requests for Commission determination of achievability of apparatus closed caption requirements.

In #12(f), above, we will use GS 15/5 (\$68.56) staff attorneys to review these requests. Processing time is 5 hours per request.

1 request x 5 hours x \$68.56/hour = \$342.80

- (g) Petitions for purpose-based waivers of apparatus closed caption requirements.

In #12(g), above, we will use GS 15/5 (\$68.56) staff attorneys to review these petitions and related filing. Processing time is 5 hours per petition.

10 documents x 5 hours x \$68.56/hour = \$3,428

- (h) Complaints alleging violations of the apparatus closed caption requirements.

In #12(h), above, we will use GS 13/5 (\$49.32) staff analysts to review and forward these informal complaints. Processing time is 1 hour per complaint.

25 complaints x 1 hour/complaint x \$49.32/hour = \$1,233

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In addition, we will use GS 15/5 (\$68.56) staff attorneys to review the responses and related documents. Processing time on average is 3 hours per response.

25 responses x 3 hours x \$68.56/hour = \$5,142

15. Based on its experience, the Commission decreased the burdens associated with this information collection by updating the estimated number of complaints and estimated hourly burdens related to the filing of complaints,<sup>26</sup> and transferred certain information collection burdens related to the filing of complaints from this information collection to OMB Control Number 3060-0874.<sup>27</sup> Overall, the burdens associated with these two information collections were decreased because filing a complaint offline under this collection (OMB Control Number 3060-1162) was estimated to require one (1) hour and is now estimated to require 0.50 hour (30 minutes) per complaint, and filing a complaint online (burdens reflected in OMB Control Number 3060-0874) is estimated to require 0.25 hour (15 minutes) per complaint. Therefore, there are adjustments/decreases to this information collection, which are as follows: **-150** from the annual number of respondents (from 1,322 **to 1,172**), **-325** from the annual number of responses (from 3,666 **to 3,341**), and **-865** from the annual burden hours (from 10,062 hours **to 9,197 hours**). There are no changes to the annual cost. Also, there are no program changes to this information collection.
  16. The Commission does not intend to publish the results of these collections of information.
  17. We are not requesting approval regarding non-display of an expiration date.
  18. There are no exceptions to the certification statement.
- B. Collections of Information Employing Statistical Methods: None.**

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<sup>26</sup> See *supra* #12(d) and #12(h).

<sup>27</sup> See *supra* #12(h).