

Section 68.5, Waivers (Application for Waiver of Hearing Aid Compatibility Requirements)

SUPPORTING STATEMENT

A. Justification:

1. Section 710(b) of the Communications Act of 1934, as amended (the Act), requires that almost all telephones manufactured in, or imported into, this country must be hearing aid compatible. Congress recognized, however, that there may be technological or economic reasons why some new telephones may not meet the hearing aid compatibility (HAC) requirement. Therefore, Congress provided a waiver request procedure. Section 68.5 of the Commission's rules, 47 CFR § 68.5, provides the criteria to be used to assess waiver requests.

The Commission submits this revised information collection to the Office of Management and Budget (OMB) to modify the existing information collection requirements under OMB Control Number 3060-0422 relating to the Commission's hearing aid compatibility (HAC) requirements. In this supporting statement, the Commission adds wireline advanced communications services (ACS) telephonic customer premises equipment (CPE) that are subject to the waiver provisions of section 68.5 of the Commission's rules to existing burdens for wireline telephones connected to the public switched telephone network (PSTN) that were included in the February 2016 Paperwork Reduction Act (PRA) submission, OMB Control Number 3060-0422.

History:

In 1989, pursuant to section 710(b) of the Act, the Commission adopted rules requiring many telephones to be hearing aid compatible. The Commission also adopted the waiver provision in section 68.5 of the rules, which permits interested persons to request a waiver of HAC requirements. The waiver provision applied to wireline telephones connected to the PSTN. *Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons*, First Report and Order, 4 FCC Rcd 4596 (1989).

In 2017, the Commission released the *2017 HAC Order* to implement requirements of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. No. 111-260, § 102, 124 Stat. 2751, 2753 (2010); Pub. L. No. 111-265 (technical amendments to CVAA). *Access to Telecommunication Equipment and Services by Persons with Disabilities; Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets; Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations*, Report and Order and Order on Reconsideration, 32 FCC Rcd 9063 (2017) (*2017 HAC Order*). In this order, the Commission adopted rules applicable to telephones used with wireline ACS, which includes interconnected and non-interconnected Voice over Internet Protocol (VoIP) service. Wireline telephones used with ACS are called "ACS telephonic CPE." The Commission applied the HAC requirements of Part 68 of its rules to ACS telephonic CPE, including applying the waiver provisions of section 68.5 to ACS telephonic CPE.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for the information collection requirements is found at section 710 of the Act, 47 U.S.C. § 610, in the Hearing Aid Compatibility Act of 1988, Public Law 100-394, 102 Stat. 976, August 16, 1988, and in the CVAA.

2. The Commission would receive requests for waivers of the HAC requirements from telephone manufacturers and distributors pursuant to Section 68.5 of its rules. Upon receipt of such requests, the Commission would review the merits of the requests and determine whether the public interest would be served by grant of a waiver.

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3. The Commission permits electronic filing of waiver requests under section 68.5.
4. There is no duplication with other Commission collections or collections by other agencies.
5. Small businesses would be impacted by this information collection only to the extent that they produce or distribute new, non-hearing aid compatible telephones and apply for a waiver pursuant to section 68.5. The number of such waiver requests is expected to be minimal.
6. The existence of a waiver process benefits consumers, federal programs and policy, and industry. With a less rigorous process, the requirement for near universal hearing aid compatible telephones could be circumvented by those manufacturing and distributing non-hearing aid compatible telephones, thereby frustrating the Commission's effort to ensure that all Americans have reasonable access to telephone services. On the other hand, the absence of a waiver process altogether could be significantly burdensome to industry, where technological or economic considerations about compliance with the requirements could mean the difference between going to market, or not going to market, with a specific telephone.
7. Respondents theoretically could file waiver requests more often than quarterly, but those are business decisions on respondents' parts and completely within respondents' control. Otherwise, the information collection is not inconsistent with the guidelines of 5 CFR § 1320.5(d)(2).
8. The Commission published a notice in the *Federal Register* pursuant to 5 CFR § 1320.8(d) on November 14, 2018 at 83 FR 56843, seeking comments on the information collection requirements contained in this supporting statement. No comments were received from the public.
9. The Commission does not anticipate providing any payment or gift to any respondents.
10. Assurances of confidentiality are not being provided to respondents, although respondents may request confidentiality pursuant to 47 CFR § 0.459.
11. Information of a sensitive nature is not solicited in this information collection.
12. Estimates of the hour burden for the collection of information are as follows:

The Commission estimates that there will be approximately 2 manufacturers (respondents) each year that would seek a waiver of the rule which requires that telephones be hearing aid compatible. This number includes both the manufacturers of wireline telephones that were included in the February 2016 PRA submission, OMB Control Number 3060-0422, as well as the manufacturers of wireline ACS telephonic CPE that are included here for the first time. Although this process will be done "on occasion," for purposes of burden estimates, the Commission assumes 1 response per respondent per year. In addition, the Commission estimates that respondents will require 3 hours per response to collect the data essential for seeking a waiver and to prepare the document for submission to the Commission.

Total Number of Respondents: 2

Total Annual Number of Responses: 2 respondents / year x 1 response / respondent = **2 responses / year**

Total Annual Burden Hours: 2 responses / year x 3 hours / response = **6 hours / year**

The Commission assumes that respondents will use, to prepare the responses, in-house personnel whose pay is comparable to a mid-level federal employee GS-13/5 (\$52.66/hour) to comply with the requirement:

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Total Annual In-House Cost: 6 hours x \$52.66 / hour = **\$315.96**

13. The Commission believes that respondents will use in-house personnel to prepare the waiver requests, thus there will be no costs to the respondents (apart from in-house costs).

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

(b) Total annual cost (operation and maintenance): **None**

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

14. The Commission will use staff attorneys to review and process waiver requests, and any associated documents, and prepare an appropriate reply. This process will require 3 hours per request. The hourly salary for an employee charged with this task will be a GS-14/5 (\$62.23 / hour).

Total Cost to the Federal Government: 2 responses x 3 hours x \$62.23 / hour = **\$373.38**

15. The adoption of the Commission's 2017 *HAC Order*, document FCC 17-135, amends the Commission's HAC rules to add ACS telephonic CPE to telephones that are now subject to the waiver provisions of section 68.5 of the Commission's rules. This amendment does not increase or decrease the existing burdens reported in the 2016 submission. Therefore, there are no program changes or adjustments to this information collection.
16. The Commission does not intend to publish the results of the information collection requirements.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of this information collection.
18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

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