

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

SUPPORTING STATEMENT

A. Justification

1. The Commission submits this information collection to the Office of Management and Budget (OMB) to extend the information collection under OMB Control Number 3060-0967 related to the accessibility of televised emergency information and to audio description and emergency information accessibility requirements for certain apparatus that receive, play back, or record video programming.

History:

In 2000, the Commission adopted rules to require video programming distributors (VPDs) to make emergency information provided in the audio portion of the programming accessible to viewers who have hearing disabilities, either through the use of closed captioning or another method of visual presentation.¹ Later that year, to ensure that televised emergency information is accessible to viewers who are blind or visually impaired, the Commission modified its rules to require VPDs to make emergency information audible when provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming, and to provide an aural tone when emergency information is provided visually during regular programming (e.g., through screen crawls or scrolls) to alert those viewers that the broadcaster is providing emergency information and that they should tune to another source for more information..²

In 2013, the Commission adopted rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) related to accessible emergency information, and apparatus requirements for emergency information and audio description.³ Specifically, pursuant to section 202 of the CVAA, the Commission's rules require that VPDs and video programming providers (VPPs) (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. Pursuant to section 203 of the CVAA, the Commission's rules require certain apparatus that receive, play back, or record video programming to make available audio description services and accessible emergency information.

In 2015, the Commission adopted rules to require the following: (1) apparatus manufacturers must provide a mechanism that is simple and easy to use, such as one that is reasonably comparable to a button, key, or icon,

¹ *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, Second Report and Order, 15 FCC Rcd 6615 (2000).

² *Implementation of Video Description of Video Programming*, Report and Order, 15 FCC Rcd 15230 (2000).

³ *Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010; Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 4871 (2013) (*Accessible Emergency Information Order*). The information collection requirements for the Commission's audio description rules, 47 CFR § 79.3, are set forth in the supporting statement for OMB Control No. 3060-1148. The information collection requirements for the Commission's apparatus requirements for audio description, pursuant to section 203 of the CVAA, are included in this supporting statement for OMB Control No. 3060-0967.

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for activating the secondary audio stream to access audible emergency information;⁴ and (2) starting no later than July 10, 2017, multichannel video programming distributors (MVPDs) must pass through the secondary audio stream containing audible emergency information when it is provided on linear programming accessed on second screen devices (e.g., tablets, smartphones, laptops and similar devices) over their networks as part of their MVPD services.⁵

Finally, in 2020, the Commission adopted rules that included modernizing the term “video description” in the subject rules to the more widely understood “audio description.”⁶

These rules are codified at 47 CFR §§ 79.2, 79.105, and 79.106.

Information Collection Requirements:

(a) Complaints alleging violations of the emergency information rules – 47 CFR § 79.2.

Section 79.2(c) of the Commission’s rules provides that a complaint alleging a violation of section 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 e-mail, audio-cassette recording, Braille, or some other method that would best accommodate the complainant’s disability, and that each complaint should include:

- the name of the VPD or VPP against whom the complaint is alleged;
- the date and time of the omission of the emergency information; and
- the type of emergency.

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 audio description requirements – 47 CFR §§ 79.105-79.106.⁷

⁴ *Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 5186, 5198-5206, paras. 22-36 (2015) (*Accessible Emergency Information Second Report and Order*); see also 47 CFR § 79.105(d). This rulemaking did not add any new information collection requirements, burdens or costs to this collection.

⁵ See *Accessible Emergency Information Second Report and Order*, 30 FCC Rcd at 5191-95, 5197-98, paras. 9-15, paras. 19-21; see also 47 CFR § 79.2(b)(6). Linear programming is generally video programming that is prescheduled by the video programming provider.

⁶ See *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 35 FCC Rcd 12577 (2020). The change became effective on December 30, 2020. See Federal Communications Commission, *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, 85 Fed. Reg. 76480 (Nov. 30, 2020). This rulemaking did not add any new information collection requirements, burdens, or costs to this collection.

⁷ See *Accessible Emergency Information Order*, 28 FCC Rcd at 4925-26, paras. 78-79.

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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 individuals intended to benefit from the rules are 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:

- 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 audio 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 audio 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 audio 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."⁸ Parties may raise technical infeasibility as a defense when faced with a complaint alleging a violation of the apparatus requirements or, alternatively, may file a request for a ruling under section 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 audio description apparatus requirements.

The requirements of section 203 of the CVAA pertaining to certain apparatus designed to receive, play back, or record video programming apply only to the extent they are achievable.⁹ Manufacturers of apparatus that

⁸ 47 CFR § 79.105(a) (requiring 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 CFR §§ 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 capability to decode and make available the secondary audio stream if technically feasible).

⁹ 47 CFR § 79.105(b)(3) (requiring apparatus that use a picture screen of less than 13 inches in size to comply with the provisions of this section 79.105 only if doing so is achievable, as defined in section 79.105(b)(3)); 47 CFR § 79.106(a)

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use a picture screen of less than 13 inches in size and of recording devices may petition the Commission, pursuant to section 1.41 of the Commission's rules, for a full or partial exemption from the audio 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. 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.¹⁰ In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the *ACS Order*.¹¹

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

Section 203 of the CVAA permits the Commission to waive emergency information and audio 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 transmitted simultaneously with sound but whose essential utility is derived from other purposes.

The Commission will address any requests for a 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.¹²

(f) Submission and review of consumer eligibility to receive an accessible set-top box.

The Commission granted 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 conditioned 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.¹³ DIRECTV may require customers who are blind or visually impaired to submit reasonable documentation of disability to DIRECTV (e.g., documentation from any professional or service provider, such as a social worker, with direct

(requiring all apparatus that (i) is designed to record video programming transmitted simultaneously with sound that is provided by entities subject to 47 CFR §§ 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 section 79.105(b)(3)).

¹⁰ 47 CFR § 79.105(b)(3).

¹¹ 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, paras. 119-48 (2011) (*ACS Order*).

¹² 47 CFR § 79.105(b)(4).

¹³ See *Accessible Emergency Information Order*, 28 FCC Rcd at 4904-05, paras. 43-45.

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knowledge of the individual's disability) as a condition to providing the box at no additional cost.¹⁴

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 of the Commission's rules to enforce the Commission's emergency information requirements. The Commission will notify VPDs and VPPs 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 of the Commission's rules to enforce the Commission's apparatus emergency information and audio 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 audio description apparatus requirements;
- 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 audio description apparatus requirements; and
- whether to grant a full or partial purpose-based waiver of the emergency information and audio 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) and by Section 208 of the E-Government Act of 2002, 44 U.S.C. § 3501 note, 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 "Informal Complaints and Inquiries PIA" may be reviewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

(b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC also published a system of records notice (SORN), FCC/CGB-1, "Informal Complaints, Inquiries, and Requests

¹⁴ *Id.*, 28 FCC Rcd at 4904, para. 44 & n.191.

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for Dispute Assistance,” in the *Federal Register* on August 15, 2014 (79 FR 48152), which became effective on September 24, 2014, covering the PII that may be collected, maintained, used, and stored, and disposed of when obsolete, and which are part of the information associated with these information collection requirements.¹⁵ This SORN will ensure that the PII collected in this information collection will be handled in a manner consistent with the Privacy Act of 1974, as amended.

3. Viewer complaints alleging violations of the Commission’s televised emergency information rules, 47 CFR § 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 e-mail, audio-cassette recording, 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://consumercomplaints.fcc.gov>.

Complaints alleging violations of the apparatus emergency information and audio description requirements, 47 CFR §§ 79.105-79.106, 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 individuals intended to benefit from the rules are 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 and audio description apparatus requirements may be filed pursuant to 47 CFR § 1.41. Petitions for purpose-based waivers of the emergency information and audio description apparatus requirements are expected to be transmitted by U.S. Mail or overnight delivery, or may be filed electronically where permitted by the Media Bureau or Commission.

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 audio 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

¹⁵ 79 Fed. Reg. 48152 (Aug. 15, 2014).

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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 audio 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 rules regarding accessibility to people with hearing or visual disabilities of emergency information contained in television programming, and its apparatus emergency information and audio description requirements. 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 audio 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.

Finally, these information collections allow DIRECTV to verify by reasonable documentation that a 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 CFR § 1320.

8. The Commission published a notice in the *Federal Register* on August 23, 2023, at 88 FR 57448, as required by 5 CFR § 1320.8(d), seeking comments from the public on the information collection requirements contained in this supporting statement. The Commission has not received any comments in response to the notice.

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.¹⁶

¹⁶ See 47 CFR § 0.459.

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Regarding complaints alleging violations of the Commission’s televised emergency information rules, 47 CFR § 79.2, and complaints alleging violations of the apparatus emergency information and audio description requirements, 47 CFR §§ 79.105-79.106, the Commission is requesting that individuals (consumers/respondents) submit their names, addresses, and other contact information, which the Commission’s staff needs to process the 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.”

Regarding consumer eligibility information pertaining to DIRECTV’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 complaints per year pursuant to 47 CFR § 79.2(c). Complaints are filed when a viewer believes a VPD or VPP has failed to comply with the emergency information requirements of 47 CFR § 79.2. The Commission assumes that each complaint will, in turn, require a response from the appropriate VPD or VPP. 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.¹⁷

The Commission assumes that 80% of 45 VPD/VPP responses (36 responses) will be prepared by “in-house” staff. The Commission estimates that “in-house” staff of a VPD or VPP, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 2 hours preparing each response.

36 responses x 2 hours = 72 hours x \$84.55 per hour = \$6,087.60

The remaining 20% of 45 VPD/VPP responses (9 responses) will be prepared by outside legal counsel. The Commission estimates that “in-house” staff of a VPD or VPP, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 1 hour in consultation with this attorney.

9 responses x 1 hour = 9 hours x \$84.55 per hour = \$760.95

Total Number of Respondents: 45

Total Annual Number of Responses: 36 + 9 = 45

¹⁷ The number of viewers (respondents), complaints filed (responses), and hourly burdens associated with the filing of these complaints are included in OMB Control Number 3060-0874 (as general complaints).

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Total Annual Hourly Burden: $72 + 9 = 81$ hours

Total Annual “In-House” Costs: $\$6,087.60 + \$760.95 = \$6,848.55$

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

The Commission estimates that it will receive 10 complaints per year pursuant to 47 CFR §§ 79.105-79.106. Complaints are filed when a consumer believes a manufacturer has failed to comply with the apparatus requirements of 47 CFR §§ 79.105-79.106. The Commission assumes that each complaint will, in turn, require a response from the appropriate manufacturer. To be most inclusive in its estimates, the Commission assumes that each complaint will be filed by a unique consumer against a unique manufacturer.¹⁸

The Commission assumes that 80% of 10 manufacturer responses (8 responses) will be prepared by “in-house” staff. The Commission estimates that “in-house” staff of a manufacturer, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 3 hours preparing each response.

$8 \text{ responses} \times 3 \text{ hours} = 24 \text{ hours} \times \$84.55 \text{ per hour} = \$2,029.20$

The remaining 20% of 10 manufacturer responses (2 responses) will be prepared by outside legal counsel. The Commission estimates that “in-house” staff of a manufacturer, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 1 hour in consultation with this attorney.

$2 \text{ responses} \times 1 \text{ hour} = 2 \text{ hours} \times \$84.55 \text{ per hour} = \169.10

Total Number of Respondents: 10

Total Annual Number of Responses: $8 + 2 = 10$

Total Annual Hourly Burden: $24 + 2 = 26$ hours

Total Annual “In-House” Costs: $\$2,029.20 + \$169.10 = \$2,198.30$

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

The Commission estimates that 1 manufacturer¹⁹ will file a total of 1 request annually for a

¹⁸ The number of consumers (respondents), complaints filed (responses), and hourly burdens associated with the filing of these complaints are included in OMB Control Number 3060-0874 (as general complaints).

¹⁹ To be most inclusive in its estimates, the Commission assumes that each manufacturer that responds to a complaint in #12(b), requests a determination of feasibility in #12(c), requests a determination of achievability in #12(d), and petitions for a purpose-based waiver in #12(e), is a unique manufacturer.

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determination that the requirement to have the capability to decode and make available the secondary audio stream is not technically feasible.

The Commission assumes that all requests for technical feasibility determinations (1 response) will be prepared by outside legal counsel. The Commission estimates that “in-house” staff of a manufacturer, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 2 hours in consultation with this attorney.

1 response x 2 hours = 2 hours x \$84.55 per hour = \$169.10

Total Number of Respondents: 1

Total Annual Number of Responses: 1

Total Annual Hourly Burden: 2 hours

Total Annual “In House” Costs: \$169.10

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

The Commission estimates that 1 manufacturer²⁰ will file a total of 1 request annually requesting a determination that the emergency information and audio description apparatus requirements are not achievable.

The Commission assumes that all requests for achievability determinations (1 response) will be prepared by outside legal counsel. The Commission estimates that “in-house” staff of a manufacturer, whose pay is comparable to senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 2 hours in consultation with this attorney.

1 response x 2 hours = 2 hours x \$84.55 per hour = \$169.10

Total Number of Respondents: 1

Total Annual Number of Responses: 1

Total Annual Hourly Burden: 2 hours

Total Annual “In House” Costs: \$169.10

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

(1) The Commission estimates that 1 manufacturer²¹ will file a total of 1 petition for a purpose-based waiver of the emergency information and audio description apparatus rules.

²⁰ See *supra* note 19.

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The Commission assumes that each purpose-based waiver request (1 response) will be prepared by outside legal counsel. The Commission estimates that “in-house” staff of a manufacturer, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 3 hours in consultation with this attorney.

1 response x 3 hours = 3 hours x \$84.55 per hour = \$253.65

(2) Petitions for purpose-based waivers will be put on public notice, with a minimum of a 30-day period for comments and oppositions. The Commission estimates that 2 comments or oppositions (2 respondents/1 response each) will be filed by interested parties for each waiver petition.

The Commission estimates that “in-house” staff of a commenter, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 5 hours preparing each response:

2 responses x 5 hours = 10 hours x \$84.55 per hour = \$845.50

(3) The Commission estimates that all manufacturers that file a purpose-based waiver petition will also file a reply comment.

The Commission assumes that all reply comments (1 response) will be prepared by outside legal counsel. The Commission estimates that “in-house” staff of a manufacturer, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 1 hour in consultation with this attorney.

1 response x 1 hour = 1 hour x \$84.55 per hour = \$84.55

Total Number of Respondents: 1 + 2 = 3

Total Annual Number of Responses: 1 + 2 + 1 = 4

Total Annual Hourly Burden: 3 + 10 + 1 = 14 hours

Total Annual “In House” Costs: \$253.65 + \$845.50 + \$84.55 = **\$1,183.70**

(f) Submission and review of consumer eligibility to receive an accessible set-top box.

(1) The Commission estimates that 100 customers who are blind or visually impaired will submit documentation of disability to DIRECTV to require DIRECTV to provide a set-top box model that is capable of providing aural emergency information at no additional cost.

100 customers x 1 response/respondent = 100 responses

²¹ See *supra* note 19.

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The Commission estimates that each customer or a sighted relative or friend volunteering to assist the customer will spend 1 hour preparing each response:

100 responses x 1 hour = 100 hours

Because these burdens are on DIRECTV customers (or a relative or friend assisting the customer), not DIRECTV, the hourly cost is \$0.

100 hours x \$0 / hour = \$0

(2) The Commission estimates that DIRECTV (1 respondent) will review and retain documentation of disability submitted every year by 100 customers (100 responses) who are blind or visually impaired for purposes of determining whether DIRECTV is required to provide a set-top box model that is capable of providing aural emergency information at no additional cost.

1 respondent x 100 responses = 100 responses

The Commission estimates that “in-house” staff of DIRECTV, whose pay is comparable to a senior-level federal employee (GS-15/5) at a rate of \$84.55 per hour, will spend 0.5 hours to review and retain the documentation of disability submitted by each customer who is blind or visually impaired.

100 responses x 0.5 hours = 50 hours x \$84.55 per hour = \$4,227.50

Total Number of Respondents: 100 + 1 = **101**

Total Annual Number of Responses: 100 + 100 = **200**

Total Annual Hourly Burden: 100 + 50 = **150 hours**

Total Annual “In House” Costs: \$0 + \$4,227.50 = **\$4,227.50**

Cumulative Number of Respondents: 158

(45 VPDs/VPPs + 10 manufacturers + 2 commenters + 1 DIRECTV + 100 customers)

Cumulative Number of Annual Responses: 261

(45 + 10 + 1 + 1 + 4 + 100 + 100)

Cumulative Annual Burden Hours: 275 hours

(81 + 26 + 2 + 2 + 14 + 50 + 100)

Cumulative Annual “In-House” Costs: \$14,796.25

(\$6,848.55 + \$2,198.30 + \$169.10 + \$169.10 + \$1,183.70 + \$0 + \$4,227.50)

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

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

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

In #12(a) above, the Commission estimates that 20% of 45 VPD/VPP responses to complaints (9 responses) will be prepared by outside legal counsel. The Commission estimates that, for each complaint, the attorney will consult with “in-house” staff of the VPD or VPP for 1 hour and spend another 2 hours preparing the response. The Commission estimates that outside counsel will charge approximately \$300 per hour.

9 complaint responses x 3 hours x \$300 per hour = **\$8,100**

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

In #12(b) above, the Commission estimates that 20% of 10 manufacturer responses (2 responses) will be prepared by outside legal counsel. The Commission estimates that, for each complaint, the attorney will consult with “in-house” staff of the manufacturer for 1 hour and spend another 2 hours preparing the response. The Commission estimates that outside counsel will charge approximately \$300 per hour.

2 complaint responses x 3 hours x \$300 per hour = **\$1,800**

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

In #12(c) above, the Commission assumes that all requests for technical feasibility determinations (1 response) will be prepared by outside legal counsel. The Commission estimates that, for each request, the attorney will consult with “in-house” staff of the manufacturer for 2 hours and spend another 3 hours preparing the request. The Commission estimates that outside counsel will charge approximately \$300 per hour.

1 request x 5 hours x \$300 per hour = **\$1,500**

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

In #12(d) above, the Commission assumes that all requests for achievability determinations (1 response) will be prepared by outside legal counsel. The Commission estimates that, for each request, the attorney will consult with “in-house” staff of the manufacturer for 2 hours and spend another 3 hours preparing the request. The Commission estimates that outside counsel will charge approximately \$300 per hour.

1 request x 5 hours x \$300 per hour = **\$1,500**

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

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

In #12(e) above, the Commission assumes that each purpose-based waiver request (1 response) will be prepared by outside legal counsel. The Commission estimates that, for each request, the attorney will consult with “in-house” staff of the manufacturer for 3 hours and spend another 3 hours preparing the request. The Commission estimates that outside counsel will charge approximately \$300 per hour.

1 request x 6 hours x \$300 per hour = **\$1,800**

Petitions for purpose-based waivers will be put on public notice, with a minimum of a 30-day period for comments and oppositions. The Commission assumes that all manufacturers that file a purpose-based waiver petition will also file a reply comment. The Commission estimates that, for each reply comment, the attorney will consult with “in-house” staff of the manufacturer for 1 hour and spend another 1 hour preparing the reply comment. The Commission estimates that outside counsel will charge approximately \$300 per hour.

1 reply comment x 2 hours x \$300 per hour = **\$600**

(f) Submission and review of consumer eligibility information pertaining to DIRECTV’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: None

Total annual costs (operation and maintenance): \$15,300
(\$8,100 + \$1,800 + \$1,500 + \$1,500 + \$1,800 + \$600)

Total annualized costs requested: \$15,300
(\$8,100 + \$1,800 + \$1,500 + \$1,500 + \$1,800 + \$600)

14. Estimates of annualized costs to the Federal government:

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

In #12(a) above, the Commission estimates that it will forward 45 complaints to VPDs/VPPs for a response. The Commission will use staff at the GS-13/5 level (\$60.83 per hour) to process these complaints and responses. Processing of each complaint and associated response, including intake, complaint service, and review, is estimated at 4 hours per complaint.

45 complaints x 4 hours x \$60.83 per hour = **\$10,949.40**

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

In #12(b) above, the Commission estimates that it will forward 10 complaints to manufacturers for a response. The Commission will use staff at the GS-13/5 level (\$60.83 per hour) to process these

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

complaints and responses. Processing of each complaint and associated response, including intake, complaint service, and review, is estimated at 4 hours per complaint.

10 complaints x 4 hours x \$60.83 per hour = **\$2,433.20**

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

In #12(c) above, the Commission estimates that 1 manufacturer will file 1 request annually seeking a Commission determination as to whether it is technically feasible for certain apparatus to comply with the emergency information and audio description apparatus requirements.

The Commission will use GS-15/5 (\$84.55 per hour) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

1 request x 5 hours x \$84.55 per hour = **\$422.75**

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

In #12(d) above, the Commission estimates that 1 manufacturer will file 1 request annually seeking a Commission determination as to whether it is achievable for certain apparatus to comply with the emergency information and audio description apparatus requirements.

The Commission will use GS-15/5 (\$84.55 per hour) staff attorneys to review these requests. The Commission estimates that this will require 5 hours for this review per request.

1 request x 5 hours x \$84.55 per hour = **\$422.75**

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

In #12(e) above, the Commission estimates that 1 manufacturer will file 1 petition for a purpose-based waiver of the emergency information and audio description apparatus rules.

The Commission will use GS-15/5 (\$84.55 per hour) staff attorneys to review these waiver petitions, comments/oppositions, and reply comments. The Commission estimates that this will require 5 hours for this review per petition.

1 request x 5 hours x \$84.55 per hour = **\$422.75**

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

The Commission estimates no annual costs to the Federal government.

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

Total Cost to Federal Government: \$14,650.85

(\$10,949.40 + \$2,433.20 + \$422.75 + \$422.75 + \$422.75)

15. The Commission has the following program changes to this collection, which reflects an information collection requirement that was inadvertently omitted from this collection the last time this information collection was reviewed and approved by OMB. The program change is due to customers who are blind or visually impaired submitting documentation of disability to DIRECTV (**+100 respondents, +100 responses, and +100 annual burden hours**). The Commission makes the following program changes:

(a) the annual number of respondents has increased by **+100**, from 61 respondents to **161 annual number of respondents**;

(b) the annual number of responses has increased by **+100**, from 161 responses to **261 annual number of responses**;

(c) the annual burden hours have increased by **+100**, from 175 to **275 annual burden hours**.

There is one adjustment to this information collection. The Commission inadvertently double-counted the number of respondents that are already accounted for in information collection requirement (b).

Therefore, the Commission makes the following adjustment: The annual number of respondents has decreased by **-3**, from 161 respondents to **158 annual number of respondents**.

16. The Commission may publish aggregate information on its website about complaints, including complaints that allege violations of the Commission's rules related to the accessibility of televised emergency information and to the audio description and emergency information accessibility requirements for certain apparatus that receive, play back, or record video programming, and will comply with all valid FOIA requests with regard to information sought pertaining to disability-related accessibility complaints.

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.