

of this section only if doing so is achievable as defined in this section. Manufacturers of apparatus that use a picture screen of less than 13 inches in size may petition the Commission for a full or partial exemption from the video description and emergency information requirements of this section pursuant to § 1.41 of this chapter, which the Commission may grant upon a finding that the requirements of this section are not achievable, or may assert that such 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.

(ii) The petitioner or respondent must support a petition for exemption or a response to a complaint with sufficient evidence to demonstrate that compliance with the requirements of this section is not “achievable” where “achievable” means with reasonable effort or expense. The Commission will consider the following factors when determining whether the requirements of this section are not “achievable:”

(A) The nature and cost of the steps needed to meet the requirements of this section with respect to the specific equipment or service in question;

(B) The technical and economic impact on the operation of the manufacturer or provider and on the operation of the specific equipment or service in question, including on the development and deployment of new communications technologies;

(C) The type of operations of the manufacturer or provider; and

(D) The extent to which the service provider or manufacturer in question offers accessible services or equipment containing varying degrees of functionality and features, and offered at differing price points.

(4) *Waiver.* Manufacturers of apparatus may petition the Commission for a full or partial waiver of the requirements of this section, which the Commission may grant upon a finding that the apparatus meets 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.

(c) *Interconnection.* Covered apparatus shall use interconnection mechanisms that make available the audio provided via a secondary audio stream.

[78 FR 31798, May 24, 2013]

EFFECTIVE DATE NOTE: At 78 FR 31798, May 24, 2013, § 79.105 was added. Paragraphs (a), (b)(3), and (b)(4) of this section contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 79.106 Video description and emergency information accessibility requirements for recording devices.

(a) Effective May 26, 2015, all apparatus that is designed to record video programming transmitted simultaneously with sound that is provided by entities subject to §§ 79.2 and 79.3 and is manufactured in the United States or imported for use in the United States, must comply with the provisions of this section except that apparatus must only do so if it is achievable as defined in § 79.105(b)(3).

NOTE 1 TO PARAGRAPH (a): Apparatus includes the physical device and the video player(s) capable of displaying video programming transmitted simultaneously with sound that manufacturers install into the devices they manufacture before sale, whether in the form of hardware, software, or a combination of both, as well as any video players capable of displaying video programming transmitted simultaneously with sound that manufacturers direct consumers to install after sale.

NOTE 2 TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before May 26, 2015.

(b) All apparatus subject to this section must enable the presentation or the pass through of the secondary audio stream, which will facilitate the provision of video description signals and emergency information (as that term is defined in § 79.2) such that viewers are able to activate and de-activate

§ 79.106

47 CFR Ch. I (10–1–13 Edition)

the video description as the video programming is played back on a picture screen of any size.

(c) All apparatus subject to this section must comply with the interconnection mechanism requirements in § 79.105(c).

[78 FR 31798, May 24, 2013]