

(10) *Preview and setting retention.* All apparatus must provide the ability for the user to preview default and user selection of the caption features required by this section, and must retain such settings as the default caption configuration until changed by the user.

(11) *Safe Harbor.* Apparatus which implement Society of Motion Picture and Television Engineers Timed Text format (SMPTE ST 2052-1:2010 incorporated by reference, *see* §79.100) with respect to the functionality in paragraphs (c)(1) through (10) of this section shall be deemed in compliance with paragraph (c) of this section.

NOTE TO PARAGRAPH (c): Where video programming providers or distributors subject to §79.4 of this part display or render captions, they shall implement the functional requirements contained in paragraphs (c)(1) through (10) of this section unless doing so is economically burdensome as defined in §79.4(d).

(d) *Interconnection.* All video outputs of covered apparatus shall be capable of conveying from the source device to the consumer equipment the information necessary to permit or render the display of closed captions.

[77 FR 19518, Mar. 30, 2012, as amended at 78 FR 39628, July 2, 2013]

**§79.104 Closed caption decoder requirements for recording devices.**

(a) Effective January 1, 2014, all apparatus designed to record video programming transmitted simultaneously with sound, if such apparatus 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 §79.103(b)(3).

NOTE TO PARAGRAPH (a): This paragraph places no restrictions on the importing, shipping, or sale of apparatus that were manufactured before January 1, 2014.

(b) All apparatus subject to this section must enable the rendering or the pass through of closed captions such that viewers are able to activate and deactivate the closed captions as the video programming is played back as described in §79.103(c).

(c) All apparatus subject to this section must comply with the inter-

connection mechanism requirements in §79.103(d).

[77 FR 19520, Mar. 30, 2012, as amended at 78 FR 39628, July 2, 2013]

**§79.105 Video description and emergency information accessibility requirements for all apparatus.**

(a) Effective May 26, 2015, all apparatus that is designed to receive or play back video programming transmitted simultaneously with sound that is provided by entities subject to §§79.2 and 79.3, is manufactured in the United States or imported for use in the United States, and uses a picture screen of any size, must have the capability to decode and make available the secondary audio stream if technically feasible, unless otherwise provided in this section, which will facilitate the following services:

(1) The transmission and delivery of video description services as required by §79.3; and

(2) Emergency information (as that term is defined in §79.2) in a manner that is accessible to individuals who are blind or visually impaired.

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) *Exempt apparatus*—(1) *Display-only monitors.* Apparatus or class of apparatus that are display-only video monitors with no playback capability are not required to comply with the provisions of this section.

(2) *Professional or commercial equipment.* Apparatus or class of apparatus that are professional or commercial equipment not typically used by the public are not required to comply with the provisions of this section.

(3)(i) *Achievable.* Apparatus that use a picture screen of less than 13 inches in size must comply with the provisions

of this section only if doing so is achievable as defined in this section. 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.

(d) Beginning December 20, 2016, all apparatus subject to this section must provide a simple and easy to use mechanism for activating the secondary audio stream for audible emergency information.

NOTE TO PARAGRAPH (d): This paragraph places no restrictions on the importing, shipping, or sale of navigation devices that were manufactured before December 20, 2016.

[78 FR 31798, May 24, 2013, as amended at 80 FR 39715, July 10, 2015]

**§ 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