

representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the safety zone.

Dated: October 24, 2023.

**J.W. Spittler,**

*Captain, U.S. Coast Guard, Captain of the Port Sector San Diego.*

[FR Doc. 2023-23865 Filed 10-26-23; 8:45 am]

**BILLING CODE 9110-04-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[MB Docket No. 11-43; FCC 23-82; FR ID 181039]

#### Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) expands its audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year until all DMAs are included. This action is based on a finding that the costs of expanding the audio description regulations to DMAs 101 through 210 are reasonable for program owners, providers, and distributors.

**DATES:** Effective November 27, 2023.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Diana Sokolow, [Diana.Sokolow@fcc.gov](mailto:Diana.Sokolow@fcc.gov), of the Policy Division, Media Bureau, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Report and Order, FCC 23-82, adopted and released on October 17, 2023. The full text of this document will be available at <https://docs.fcc.gov/public/attachments/FCC-23-82A1.pdf> and via ECFS at <https://www.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word,

and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), 1-844-4-FCC-ASL (1-844-432-2275) (videophone).

#### Synopsis

1. In this Second Report and Order (Order), we expand our audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year until all DMAs are included. Such an expansion will help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming. Consistent with the requirements of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), we find that the costs of expanding the audio description regulations to DMAs 101 through 210 are reasonable for program owners, providers, and distributors. No commenters oppose this action.

2. Audio description makes video programming<sup>1</sup> more accessible to individuals who are blind or visually impaired through "[t]he insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue."<sup>2</sup> To access audio description, consumers generally switch from the main program audio to the secondary audio stream on which audio description is typically provided. In 2011, pursuant to section 202 of the CVAA, the Commission adopted rules requiring certain television broadcast stations and multichannel video programming distributors (MVPDs) to provide audio description for a portion of the video programming that they offer to consumers. The current audio description rules require certain commercial television broadcast stations to provide 50 hours of audio-described programming per calendar quarter during prime time or on children's programming, as well as an additional 37.5 hours of audio-described programming per calendar quarter at any time between 6 a.m. and 11:59 p.m.<sup>3</sup> The commercial television

broadcast stations that are subject to this requirement are those that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC) and are located in the top television markets.<sup>4</sup>

3. The 2011 *Audio Description Order* applied the audio description requirements to certain television broadcast stations in DMAs 1 through 60.<sup>5</sup> Pursuant to the requirements of the CVAA, the Commission submitted a report to Congress (the Second Report) to assess, among other topics, "the potential costs to program owners, providers, and distributors in [DMAs] outside of the top 60 of creating [audio-described] programming" and "the need for additional described programming in [DMAs] outside the top 60."<sup>6</sup> The Media Bureau submitted the Second Report to Congress in October 2019, describing the consumer desire for application of the audio description rules outside the top 60 DMAs but stating that commenters did not offer "detailed or conclusive information" as to the costs of such an expansion or a station's ability to bear those costs. It thus deferred issuing a determination

otherwise associated with any television network [to] pass through audio description when the network provides audio description and the broadcast station has the technical capability necessary to pass through the audio description, unless it is using the technology used to provide audio description for another purpose related to the programming that would conflict with providing the audio description." *Id.* 79.3(b)(3). In addition, MVPD systems that serve 50,000 or more subscribers must provide 50 hours of audio description per calendar quarter during prime time or on children's programming, as well as an additional 37.5 hours of audio description per calendar quarter at any time between 6 a.m. and 11:59 p.m., on each of the top five national nonbroadcast networks that they carry on those systems. *Id.* 79.3(b)(4). The rules also require MVPD systems of any size to pass through audio description provided by a broadcast station or nonbroadcast network, if the channel on which the MVPD distributes the station or programming has the technical capability necessary to do so and if that technology is not being used for another purpose related to the programming. *Id.* 79.3(b)(5)(i)-(ii).

<sup>4</sup> *Id.* 79.3(b)(1).

<sup>5</sup> *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, 76 FR 55585, para. 16 (Sept. 8, 2011) ("The rules extend the requirement . . . to major network affiliates in the 60 largest markets beginning on July 1, 2015.") (*2011 Audio Description Order*).

<sup>6</sup> 47 U.S.C. 613(f)(4)(C)(iii)(IV), (VII). In the *2020 Audio Description Order*, the Commission modernized the terminology in its rules by replacing the term "video description" with the "more common and widely understood" term "audio description." *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, 85 FR 76480, paras. 14-15 (Nov. 30, 2020) (*2020 Audio Description Order*). When discussing items that use the prior terminology, we have updated the terminology accordingly.

<sup>1</sup> "Video programming" refers to programming provided by, or generally considered comparable to programming provided by, a television broadcast station but does not include consumer-generated media.

<sup>2</sup> 47 CFR 79.3(a)(3).

<sup>3</sup> 47 CFR 79.3(b)(1). The rules also require "[t]elevision broadcast stations that are affiliated or

regarding whether any costs associated with the expansion would be reasonable, explaining that, “[s]hould the Commission seek to expand the [audio] description requirements to DMAs outside the top 60, it will need to utilize the information contained in this Second Report, and any further information available to it at the time, to determine that ‘the costs of implementing the [audio] description regulations to program owners, providers, and distributors in those additional markets are reasonable.’”<sup>7</sup>

4. The CVAA provides the Commission with authority “to phase in the [audio] description regulations for up to an additional 10 [DMAs] each year,” “based upon the findings, conclusions, and recommendations contained in the [Second Report],” “(I) if the costs of implementing the [audio] description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and (II) except that the Commission may grant waivers to entities in specific [DMAs] where it deems appropriate.”<sup>8</sup> Exercising this authority, the Commission adopted a phased expansion of the audio description rules, finding that the costs of the expansion to DMAs 61 through 100 are reasonable for program owners, providers, and distributors.<sup>9</sup> The audio description requirements extended to DMAs 61 through 70 on January 1, 2021, to DMAs 71 through 80 on January 1, 2022, and to DMAs 81 through 90 on January 1, 2023. The requirements will extend to DMAs 91 through 100 on January 1, 2024. Thus far, the timetable for the phased expansion has been successful, with no requests for relief under either the rule governing exemptions due to economic burden or the more general waiver rule.

5. The *2020 Audio Description Order* also indicated that the Commission would consider in 2023 whether to

continue expanding the audio description requirements to an additional 10 DMAs per year, after assessing the reasonableness of the associated costs. The Commission explained that deferring a determination on the application of the audio description rules beyond DMA 100 “will best enable us to consider the unique circumstances that may be applicable” to the smallest markets, and provides “the additional benefit of . . . any additional information gleaned from [the] practical experience” of expansion beyond DMA 60. To foster this determination, in March 2023 the Commission proposed to continue expanding the audio description requirements through a phased schedule applicable to DMAs 101 through 210.<sup>10</sup> The *2023 Audio Description FNPRM* elicited four comments and two replies, all of which supported the Commission’s proposal.

6. We adopt the proposal contained in the *2023 Audio Description FNPRM* to continue phasing in the audio description requirements for an additional 10 DMAs each year until all 210 DMAs are covered. Commenters unanimously support the expansion of the Commission’s audio description rules to all remaining DMAs. As stated above, the CVAA provides the Commission with authority for this phase-in, “based upon the findings, conclusions, and recommendations contained in the [Second Report],” “(I) if the costs of implementing the [audio] description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and (II) except that the Commission may grant waivers to entities in specific [DMAs] where it deems appropriate.”<sup>11</sup>

7. The record demonstrates that the costs of implementing the audio description regulations in markets 101 through 210 are reasonable. Commenters did not specify the current costs of adding description to television programming. However, the Commission previously found that such costs held steady between 2017 and 2019, indicating that they were at a level the Commission previously deemed “minimal,” and no commenter reported that costs have increased or objected to the proposal on the basis that it would impose an unreasonable cost. We expect that the costs of extending the audio description requirements to all

remaining market areas should be minimal. This is because covered broadcasters already are required to have the equipment and infrastructure necessary to deliver a secondary audio stream for purposes of the emergency information requirements, without exception for technical capability or market size. Further, network affiliates in all DMAs are already required to pass through the audio description they receive via a network feed, which will mitigate any costs associated with the rule expansion.<sup>12</sup> For all of these reasons, we conclude that the costs of expanding the audio description regulations to DMAs 101 through 210 are reasonable. To the extent a broadcaster finds itself in an unusual situation that makes the costs of compliance unreasonable, it may avail itself of the exemption procedures discussed below.<sup>13</sup> However, based on our expertise and the record compiled in this proceeding, we expect such instances to be exceedingly rare.

8. The significant benefits of expanding the audio description requirements to DMAs 101 through 210, when weighed against the minimal costs, further support expansion to these markets. The Second Report indicated that consumers desired an expansion of the audio description requirements outside the top 60 DMAs, and we believe that consumers will benefit from an expansion even in the smallest DMAs. In fact, there may be even greater benefits to applying the audio description rules to smaller DMAs, given American Foundation for the Blind’s (AFB) assertion that “there is evidence that less urbanized communities experience higher rates of disability, including blindness.” AFB explains that the expansion should also benefit video programming providers, whose programming and advertising

<sup>12</sup> In addition, as stated in the *2020 Audio Description Order*, the Media Bureau’s first report to Congress on audio description “concluded that the costs of complying with the audio description requirements were consistent with industry’s expectations at the time the rules were adopted and had not impeded industry’s ability to comply, and the record for the Second Report did not alter that conclusion.”

<sup>13</sup> As with the 2020 expansion, comments on the *2023 Audio Description FNPRM* did not provide detailed analysis of the current costs of audio description, or the costs that entities in the additional DMAs might face as a result of the proposed expansion. Nonetheless, as explained herein, we believe that like 2020, the current record provides sufficient information to determine, as required under the CVAA, that the costs of implementing the audio description regulations to program owners, providers, and distributors in the additional markets are “reasonable.” We note that commenters did not provide any information that undermines our conclusion regarding the reasonableness of costs.

<sup>7</sup> Second Report (quoting 47 U.S.C. 613(f)(4)(C)(iv)(I)).

<sup>8</sup> 47 U.S.C. 613(f)(4)(C)(iv).

<sup>9</sup> The Commission’s audio description rules define a “video programming distributor” as “[a]ny television broadcast station licensed by the Commission and any [MVPD], and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission.” 47 CFR 79.3(a)(5). The rules also define a “video programming provider” as “[a]ny video programming distributor and any other entity that provides video programming that is intended for distribution to residential households including, but not limited to, broadcast or nonbroadcast television networks and the owners of such programming.” *Id.* 79.3(a)(2). The Commission’s audio description rules do not separately define the term “owner.”

<sup>10</sup> *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, 88 FR 18505 (Mar. 29, 2023) (*2023 Audio Description FNPRM*).

<sup>11</sup> 47 U.S.C. 613(f)(4)(C)(iv).

will reach additional consumers. When the Commission previously expanded the audio description requirements to DMAs 61 through 100, the record indicated there would also be benefits for consumers who are not blind or visually impaired, such as consumers with other sensory or cognitive impairments, individuals learning the language, and those who listen to video programming while multitasking. We believe the same would be true with regard to expanding to DMAs 101 through 210. Although commenters did not provide specific data on the amount of audio-described programming currently available in DMAs 101 through 210—including comparing that data to the amount that would be available if the Commission were to expand the audio description requirements to such DMAs—it is clear that expanding the audio description requirements to these additional markets will benefit a significant number of consumers.

9. We adopt the proposal in *2023 Audio Description FNPRM* to continue the phase-in with DMAs 101 through 110 on January 1, 2025, extending to 10 additional DMAs per year until the phase-in concludes with DMAs 201 through 210 on January 1, 2035, consistent with the expansion allowable under the CVAA.<sup>14</sup> The Commission sought comment on whether it should consider phasing in the audio description requirements to a smaller subset of DMAs, or to a smaller number of DMAs per year. ACB explains that adopting an even slower expansion “would increase the equity gap experienced by residents of smaller communities, which are often rural and/or at an economic disadvantage.” The record does not contain any support for a slower phase-in, and thus we adopt the proposed timeline contained in the *2023 Audio Description FNPRM*, which we expect will provide covered broadcasters with ample time to comply.

<sup>14</sup> The CVAA does not permit the Commission to expand the audio description requirements to more than an additional 10 DMAs per year. We recognize, however, American Council of the Blind (ACB) and AFB’s assertions that to the extent broadcasters voluntarily pass through audio description at an earlier date, doing so would benefit consumers. The National Association of Broadcasters (NAB) has responded that it “will heed the disability community’s requests to encourage television stations in markets outside the top 100 DMAs to implement audio description earlier than the FCC may require in accordance with the CVAA.” Accordingly, while we adopt the phase-in schedule as proposed and consistent with the CVAA, we encourage television stations in markets outside the top 100 DMAs to implement audio description earlier to the extent they are able to do so.

10. We also adopt the proposal contained in the *2023 Audio Description FNPRM* to base the extension to additional DMAs on an updated Nielsen determination of market rankings. We find that using updated Nielsen data will facilitate the efficient roll out of audio description obligations to all remaining DMAs, and will be consistent with the Commission’s prior expansion of the rules from the top 25 markets to the top 60 markets and from the top 60 markets to the top 100 markets. The audio description rules currently utilize DMA rankings “as determined by The Nielsen Company as of January 1, 2020.”<sup>15</sup> The revised rules will utilize DMA rankings “as determined by The Nielsen Company as of January 1, 2023.” Under existing rules, the audio description requirements apply to the top 90 DMAs as of January 1, 2023, and they will next extend to DMAs 91 through 100 on January 1, 2024. We note that utilizing updated Nielsen market rankings will affect two DMAs that are in the top 90 DMAs utilizing the Nielsen figures as of January 1, 2020, that will fall within the later deadline for DMAs 91 through 100 utilizing the Nielsen figures as of January 1, 2023.<sup>16</sup> Conversely, there are two DMAs that are within the later deadline for DMAs 91 through 100 utilizing the Nielsen figures as of January 1, 2020, that will fall within the earlier deadline for DMAs 81 through 90 utilizing the Nielsen figures as of January 1, 2023.<sup>17</sup> ACB is the only commenter that addresses application of updated Nielsen figures, and it indicates that it “feels strongly that regardless of the most recent data, once audio description has been required of a DMA, that mandate should not change, even if the market’s ranking does.” To avoid any consumer confusion, and given that ACB’s request is unopposed, we find that stations that are currently subject to the deadline for DMAs 81 through 90 (January 1, 2023), but will become subject to the deadline for DMAs 91 through 100 (January 1, 2024) once the new rule takes effect, must continue complying with the audio description requirements during any gap between the effective date of the new rules and the January 1, 2024 application of the rules to DMAs 91 through 100.<sup>18</sup> In

<sup>15</sup> 47 CFR 79.3(b)(1).

<sup>16</sup> The two DMAs are (1) Paducah-Cape Girardeau-Harrisburg (moved from DMA 84 to DMA 92) and (2) Cedar Rapids-Waterloo-Iowa City and Dubuque (moved from DMA 90 to DMA 93).

<sup>17</sup> The two DMAs are (1) Chattanooga (moved from DMA 92 to DMA 84) and (2) Charleston, SC (moved from DMA 91 to DMA 88).

<sup>18</sup> We find that this approach is necessary here, whereas it was not utilized in the *2020 Audio*

other words, stations that are already subject to the rules should continue their provision of this service, regardless of a change in their DMA status, in order to prevent disruption during the gap period to consumers who have come to rely on audio description. Consistent with the approach in the *2020 Audio Description Order*, we expect stations in a DMA that was not in the top 90 markets as of January 1, 2020, but is in the top 90 markets as of January 1, 2023, to come into compliance with the audio description rules by the compliance deadline for DMAs 91 through 100.<sup>19</sup>

11. Finally, we affirm the tentative conclusion in the *2023 Audio Description FNPRM* that “sections 79.3(d) and 1.3 provide a sufficient relief mechanism for entities seeking relief from any expansion of the audio description rules to additional DMAs.” ACA Connects—America’s Communications Association states that its support for the proposed expansion of the audio description requirements is conditioned upon the Commission adopting its proposals regarding exemption petitions and waivers. According to ACA Connects, “the costs of compliance with the audio description rules may be most difficult to absorb by small MVPDs and/or MVPDs operating in the smallest market areas,” and thus, such entities may need relief in the form of either an exemption due to economic burden or a waiver for a different reason.<sup>20</sup> We find that the

*Description Order*, because of the earlier timing of the adoption of this Order (October 17, 2023 as compared to October 27, 2020), pursuant to which there may be a slightly longer time period between the effective date of the new rules and the next compliance deadline of January 1, 2024.

<sup>19</sup> We note that this January 1, 2024 compliance deadline is the date on which such stations already would have expected to become subject to the requirements, had we not adopted the use of updated Nielsen figures, so there should be no difficulty with complying.

<sup>20</sup> While today we expand the number of broadcasters subject to the audio description requirements, we recognize that our action also impacts MVPDs, given that MVPDs of any size “[m]ust pass through audio description on each broadcast station they carry, when the broadcast station provides audio description, and the channel on which the MVPD distributes the programming of the broadcast station has the technical capability necessary to pass through the audio description, unless it is using the technology used to provide audio description for another purpose related to the programming that would conflict with providing the audio description.” 47 CFR 79.3(b)(5)(i). We find that the costs of the expansion for impacted MVPDs are reasonable. MVPDs in the expanded markets that serve 50,000 or more subscribers are already subject to the separate audio description requirements that apply directly to MVPDs. We expect that even small MVPDs in small markets already have the capability to provide audio description via a secondary audio stream, because video programming distributors and providers

existing exemption and waiver procedures will be sufficient to address this concern. Specifically, section 79.3 of the Commission's rules governs petitions for exemption due to economic burden, and section 1.3 governs waivers of the Commission's rules generally. Under section 79.3(d), a video programming provider<sup>21</sup> may petition the Commission for a full or partial exemption from the audio description requirements upon a showing that they are economically burdensome.<sup>22</sup> The CVAA provides that if an expansion of the audio description rules to additional DMAs occurs, "the Commission may grant waivers to entities in specific [DMAs] where it deems appropriate."<sup>23</sup> While section 79.3(d) applies to instances in which an entity seeks to demonstrate that the extension to additional DMAs is economically burdensome, the CVAA specifically references waivers as a means of relief, which differs from the exemptions available under section 79.3(d). Hence, if an entity impacted by the extension believes it needs relief for some reason

already are required to have the equipment and infrastructure necessary to deliver a secondary audio stream for purposes of the emergency information requirements, without exception for technical capability or market size. ACA Connects states that there are "some practical limitations" even where the audio description rules already apply, including "the amount of programming encoded with audio description" and "the availability of a secondary audio programming (SAP) channel to carry the audio description." ACA Connects acknowledges that MVPDs are making progress in this area "as they replace legacy equipment and as the industry finds new solutions to facilitate distribution of multiple audio streams." In the rare instance that an MVPD in the expanded markets finds that it is unable to comply with the requirements by the time the relevant market is subject to the applicable phased compliance deadline, we agree with ACA Connects that the existing exemption and waiver procedures will suffice.

<sup>21</sup> The term "video programming provider" includes MVPDs.

<sup>22</sup> The term "economically burdensome" means imposing significant difficulty or expense, and the Commission considers the following factors in determining whether the requirements for audio description would be economically burdensome: (i) the nature and cost of providing audio description of the programming; (ii) the impact on the operation of the video programming provider; (iii) the financial resources of the video programming provider; and (iv) the type of operations of the video programming provider. In addition, the Commission considers any other factors the petitioner deems relevant to the determination and any available alternative that might constitute a reasonable substitute for the audio description requirements, and it evaluates economic burden with regard to the individual outlet. In the First Report, the Bureau stated its belief "that the ability to seek an exemption on the basis of economic burden should alleviate the potential for undue cost burdens on covered entities, particularly when the rules go into effect for broadcast stations in television markets ranked 26 through 60 in 2015." We support this finding.

<sup>23</sup> 47 U.S.C. 613(f)(4)(C)(iv)(II).

other than economic burden, it may seek a waiver under section 1.3.<sup>24</sup>

12. *Final Regulatory Flexibility Analysis*. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to the Second Report and Order. In summary, the Second Report and Order expands the audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year until all DMAs are included. The action is authorized pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and section 713 of the Communications Act of 1934, as amended, 47 U.S.C. 613. The types of small entities that may be affected by the action fall within the following categories: Television Broadcasting, Wired Telecommunications Carriers, Cable and Other Subscription Programming, Cable Companies and Systems (Rate Regulation), Cable System Operators (Telecom Act Standard), and Direct Broadcast Satellite (DBS) Service.

13. The projected reporting, recordkeeping, and other compliance requirements include phasing in the audio description requirements for an additional 10 DMAs each year, beginning with DMAs 101 through 110 on January 1, 2025 and continuing until all 210 DMAs are covered, which will be on January 1, 2035. The substance of the audio description requirements will not change, but rather, this will be an expansion of the DMAs in which broadcast television stations in those additional markets are required to comply with the requirements. The extension to additional DMAs will be based on an updated Nielsen determination, with the revised rules applying to the relevant DMAs as determined by the Nielsen company as of January 1, 2023. There are two DMAs that are in the top 90 DMAs utilizing the Nielsen figures as of January 1, 2020, that will fall within the later deadline for DMAs 91 through 100 utilizing the Nielsen figures as of January 1, 2023.<sup>25</sup>

<sup>24</sup> We note that commenters raise additional issues that are outside the scope of this Order and thus not addressed here. Such proposals include the availability of customer service agents with knowledge of audio description, the idea of "encourag[ing] entities to support the success of the expansion by informing viewers of the new availability of audio description and how to access it," and a requested increase in the amount of audio-described content. See ACB Comments at 3; AFB Comments at 4; Arona Rosegold Reply; 2020 *Audio Description Order*.

<sup>25</sup> The two DMAs are (1) Paducah-Cape Girardeau-Harrisburg (moved from DMA 84 to DMA 92) and (2) Cedar Rapids-Waterloo-Iowa City and Dubuque (moved from DMA 90 to DMA 93).

To avoid any consumer confusion, stations in those DMAs must continue complying with the audio description requirements during any gap between the effective date of the new rules and the January 1, 2024 application of the rules to DMAs 91 through 100.

14. The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not file any comments in response to the proposed rules in this proceeding.

15. The Commission considered alternatives and adopted certain proposals that will minimize the impact of the rules on small entities. First, by continuing the phase-in by extending the requirements to an additional 10 DMAs per year, the Commission will ensure that the smallest DMAs have the longest timeframe for compliance. In the 2023 *Audio Description FNPRM*, the Commission sought comment on whether it should phase in a smaller subset of DMAs, and whether the Commission should consider expanding to a smaller number of DMAs each year, such as five. While either such alternate approach could have mitigated the costs of the expansion, no commenter supports the alternate approaches, and one commenter expresses concern that a slower expansion would increase the equity gap that exists in smaller communities. Second, to the extent any entity in DMAs 101 through 210 finds that it is unable to comply with the expansion due to economic burden, it may file a petition for an exemption due to economic burden in accordance with section 79.3(d). Stations and MVPDs, including small entities, that need relief for some reason other than an economic burden may also request a waiver under section 1.3. We conclude that sections 79.3(d) and 1.3 provide a sufficient mechanism for entities, including smaller entities, seeking relief from the expansion of the audio description rules to additional DMAs.

16. *Paperwork Reduction Act*. The Second Report and Order does not contain new or substantively revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520).<sup>26</sup> In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4). This document may contain

<sup>26</sup> The Commission will file a non-substantive modification to the information collection that contains § 79.3 (OMB 3060–1148), to clarify that the audio description requirements have been extended to DMAs 101 through 210.

non-substantive modifications to approved information collection(s). Any such modifications will be submitted to OMB for review pursuant to OMB's non-substantive modification process.

17. *Ordering Clauses.* Accordingly, it is ordered that, pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111-260, 124 Stat. 2751, and the authority contained in Section 713 of the Communications Act of 1934, as amended, 47 U.S.C. 613, this Second Report and Order is hereby adopted.

18. It is further ordered that part 79 of the Commission's rules, 47 CFR part 79, is amended as set forth in the Final Rules below, and such rule amendments shall be effective thirty (30) days after the date of publication in the **Federal Register**. The amendments to part 79 may contain non-substantive modifications to information collection requirements that will be submitted to the Office of Management and Budget for approval.

19. It is further ordered that the Commission's Office of the Secretary, Reference Information Center, shall send a copy of this Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

20. It is further ordered that the Commission shall send a copy of this Second Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 79**

Communications equipment, Television broadcasters.

Federal Communications Commission.

**Marlene Dortch,**  
*Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 79 to read as follows:

**PART 79—ACCESSIBILITY OF VIDEO PROGRAMMING**

■ 1. The authority citation for part 79 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 330, 544a, 613, 617.

■ 2. Amend § 79.3 by revising paragraph (b)(1) to read as follows:

**§ 79.3 Audio description of video programming.**

\* \* \* \* \*

(b) \* \* \*

(1) Commercial television broadcast stations that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC), and that are licensed to a community located in the top 90 DMAs, as determined by The Nielsen Company as of January 1, 2023, must provide 50 hours of audio description per calendar quarter, either during prime time or on children's programming, and 37.5 additional hours of audio description per calendar quarter between 6 a.m. and 11:59 p.m. local time, on each programming stream on which they

carry one of the top four commercial television broadcast networks. If a previously unaffiliated station in one of these markets becomes affiliated with one of these networks, it must begin compliance with these requirements no later than three months after the affiliation agreement is finalized. On January 1, 2024, and on January 1 each year thereafter until January 1, 2035, the requirements of this paragraph (b)(1) shall extend to the next 10 largest DMAs as determined by The Nielsen Company as of January 1, 2023, as follows: On January 1, 2024, the requirements shall extend to DMAs 91 through 100; on January 1, 2025, the requirements shall extend to DMAs 101 through 110; on January 1, 2026, the requirements shall extend to DMAs 111 through 120; on January 1, 2027, the requirements shall extend to DMAs 121 through 130; on January 1, 2028, the requirements shall extend to DMAs 131 through 140; on January 1, 2029, the requirements shall extend to DMAs 141 through 150; on January 1, 2030, the requirements shall extend to DMAs 151 through 160; on January 1, 2031, the requirements shall extend to DMAs 161 through 170; on January 1, 2032, the requirements shall extend to DMAs 171 through 180; on January 1, 2033, the requirements shall extend to DMAs 181 through 190; on January 1, 2034, the requirements shall extend to DMAs 191 through 200; and on January 1, 2035, the requirements shall extend to DMAs 201 through 210;

\* \* \* \* \*

[FR Doc. 2023-23760 Filed 10-26-23; 8:45 am]

**BILLING CODE 6712-01-P**