

OMB Control Number: 3060-0316

February 2015

Title: 47 CFR Sections 76.1700, Records to be maintained locally by Cable System Operators; 76.1702, Equal Employment Opportunity; 76.1703, Commercial Records on Children's Programs; 76.1707, Leased Access; 76.1711, Emergency Alert System (EAS) Tests and Activation

SUPPORTING STATEMENT

A. Justification:

Proposed Information Collection Requirements: Circumstances Necessitating Change to Information Collection

The Commission is revising this collection to reflect the proposed changes to 47 C.F.R. Section 76.1700 in the *Notice of Proposed Rulemaking* (“*NPRM*”) in MB Docket No. 14-127, FCC 14-209, *In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, adopted on December 17, 2014. The *NPRM* proposes to expand to cable operators the requirement that public inspection files be posted to an FCC- hosted online public file database. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission proposes to take the same general approach to transitioning cable operators to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also proposes to take similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission proposes to require cable operators only to upload to the online public file documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also proposes to exempt existing political file material from the online file requirement and to require only that political file documents be uploaded on a going-forward basis.

Section 76.1700 addresses the records to be maintained by cable system operators. The *NPRM* proposes to revise Section 76.1700 to reflect the requirement that cable operators maintain their public inspection file online on the website hosted by the FCC. In addition, the Commission proposes a reorganization of Section 76.1700 to more clearly address which records must be maintained in the public inspection file versus those that must be made available to the Commission or franchising authority upon request. Among other changes, the Commission proposes to clarify that proof-of-performance test data and signal leakage logs and repair data must be made available only to the Commission and, in the case of proof-of-performance test data, also to the franchisor, and not to the public. Accordingly, this information would not be required to be included in the public inspection file or in the online public inspection file.

The Commission proposes to phase-in the requirement to commence uploading political file documents to the online file for smaller cable systems and to exempt cable systems with fewer than 1,000 subscribers from all online public file requirements, either permanently or at least initially. The *NPRM* also proposes two minor additional change to the existing cable public file requirements - it proposes to require operators, when first establishing their online public file, to provide a list of the geographic areas served by the system and proposes to require cable entities to provide the location and contact information for their local file. The purpose of this information is to make the information in the online file, and especially the political file, more useful to subscribers, advertisers, candidates, and others. Apart from these minor exceptions, the *NPRM* does not propose new or modified public inspection file

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requirements. The Commission's goal is simply to adapt the existing cable public file requirements to an online format.

The requirements listed below have not changed since last approved by OMB. The only requirements that are impacted by FCC 14-209 are contained in Section 76.1700 and the proposed revisions are explained under question 1 of this supporting statement. All other requirements remain unchanged.

47 CFR Section 76.1700 exempts cable television systems having fewer than 1,000 subscribers from the public inspection requirements contained in 47 CFR Sections 76.1701 (political file); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications).

The operator of every cable television system having 1,000 or more subscribers but fewer than 5,000 subscribers shall, upon request, provide the information required by §§ 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications) but shall maintain for public inspection a file containing a copy of all records required to be kept by 47 CFR Section 76.1701 (political files).

The operator of every cable television system having 5,000 or more subscribers shall maintain for public inspection a file containing a copy of all records which are required to be kept by §§ 76.1701 (political file); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications) required by §§ 76.1701, 76.1702, 76.1703, and 76.1715 be maintained in the online public inspection file.

47 CFR Section 76.1700(b) requires that the public inspection file shall be maintained at the office which the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any accessible place in the community served by the system unit(s) (such as a public registry for documents or an attorney's office). The public inspection file shall be available for public inspection at any time during regular business hours.

47 CFR Section 76.1700(d) requires the records specified in paragraph 47 CFR 76.1700(a) shall be retained for the period specified in §§ 76.1701, 76.1702, 76.1704(a), and 76.1706.

47 CFR Section 76.1702(a) requires that every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission and the equal employment opportunity program information described in 47 CFR 76.1702(b). These materials shall be placed in the unit's public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. The file shall be

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maintained at the central office and at every location with six or more full-time employees. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that operates multiple units shall be maintained at the central office of the headquarters employment unit. The multichannel video programming distributor shall provide reasonable accommodation at these locations for undisturbed inspection of its equal employment opportunity records by members of the public during regular business hours.

47 CFR 76.1702(b) requires that the following equal employment opportunity program information shall be included annually in the unit's public file, and on the unit's web site, if it has one, at the time of the filing of its FCC Form 396-C: (1) A list of all full-time vacancies filled by the multichannel video programming distributor employment unit during the preceding year, identified by job title; (2) For each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification, which should be separately identified), identified by name, address, contact person and telephone number; (3) The recruitment source that referred the hiree for each full-time vacancy during the preceding year; (4) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and (5) A list and brief description of the initiatives undertaken during the preceding year, if applicable.

47 CFR Section 76.1703 requires that cable operators airing children's programming must maintain records sufficient to verify compliance with 47 CFR Section 76.225 and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

47 CFR 76.1707 requires that if a cable operator adopts and enforces a written policy regarding indecent leased access programming pursuant to § 76.701, such a policy will be considered published pursuant to that rule by inclusion of the written policy in the operator's public inspection file.

47 CFR Section 76.1711 requires that records be kept of each test and activation of the Emergency Alert System (EAS) procedures pursuant to the requirement of 47 CFR Part 11 and the EAS Operating Handbook. These records shall be kept for three years.

This information collection does not address any private matters of a sensitive nature. Respondents may request redaction of any PII. The Commission prepared a system of records notice (SORN), FCC/MB-2, "Broadcast Station Public Inspection Files," that covers the PII contained in the broadcast station public inspection files located on the Commission's website. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

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Statutory authority for this collection of information is contained in Sections 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573 of the Communications Act of 1934, as amended.

2. The records are used by FCC staff in field inspections/investigations, local public officials and the public to assess a cable television system's performance and to ensure that the system is in compliance with all of the Commission's applicable rules and regulations.
3. The changes proposed in the *NPRM* involve automated, electronic collection techniques. Currently, cable operators have the option of maintaining all or part of their public file, including their political file, in a computer database rather than in paper files. Therefore, instead of having to print all items and placing them in the public file, a station may store materials on a computer that is available to the public. This existing electronic option is not an on-line public file requirement, since the materials do not need to be available via the Internet. The changes proposed in the *NPRM* would require television licensees to instead post their "electronic" public files on the Commission's website, making the public files available over the Internet.
4. No other agency imposes a similar information collection on the respondents. There is no similar data available.
5. This information collection does not impact small entities. The *NPRM* proposes to exempt cable systems with fewer than 1,000 subscribers from all online public file requirements, either permanently or at least initially.
6. If the recordkeeping requirements in this collection were not enforced, the Commission, local franchise authorities and the public would have no written record to verify cable television system compliance with the Commission's rules and regulations concerning system performance, hiring, children's programming and political advertising.
7. There are no special circumstances for the recordkeeping requirements contained in this collection.
8. The Commission published a notice in the Federal Register seeking comments from the public on the information collection requirements contained in this collection (see 80 FR 8031) on February 13, 2015. To date, no comments have been received from the public.
9. There were no gifts or payments provided to respondents associated with this information collection.
10. Most of the documents comprising the public file consist of materials that are not of a confidential nature. With respect to any such documents that may contain proprietary trade secrets and confidential information, the Commission has instituted procedures to protect the

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confidentiality of any such information to the extent permitted by law. Respondents complying with the information collection requirements may request that the information they submit be withheld from disclosure. If confidentiality is requested, such requests will be processed in accordance with the Commission's rules, 47 CFR § 0.459.

11. This collection of information does not address any private matters of a sensitive nature.

12. We estimate 3,000 cable television systems that serve more than 1,000 subscribers each. The estimated average burden is 18 hours for each cable system.

Total Number of Respondents: 3,000 Cable Television Systems

Total Number of Responses: 3,000 records/files

Total Annual Burden Hours: 3,000 records/files x 18 hrs/system = 54,000 hours

Total "In-House" Costs: We estimate an average hourly wage of \$20.00 per hour for individuals tasked with the recordkeeping requirements.

3,000 records/files x 18 hrs/system x \$20.00 per hour = **\$1,080,000**

These estimates are based on Commission staff's knowledge and familiarity with the data required.

13. Annual Cost Burden:

- (a) Total annualized one-time capital/startup costs: 3,000 respondents x \$197.28¹ = \$591,840.
- (b) Total annual costs (O&M): None
- (c) Total annualized one-time startup cost requested: \$591,840.

14. The Commission estimates that the initial outlay to expand the online public file database to include cable will be approximately \$228,000, and that annual costs attributable to cable will be approximately \$47,500 for IT operations and overhead.² The Commission plans to complete the

¹ When it first established the online public inspection file for television stations, the Commission estimated that stations, on average, may need to spend \$394.56 in one-time capital costs in order to out-source the scanning of the existing public files. While cable operators may choose to scan and upload these files in-house at lower costs, for purposes of this information collection, we are assuming that operators will choose to out-source this work. We are assuming that the capital costs for cable operators to comply with online file requirements will be less than the costs for TV stations because cable public files are smaller than TV public files. We estimate that cable public files are ½ as large as TV public files and that the cost to cable entities will therefore be only ½ of the cost to TV stations.

² We estimate that the total initial cost to expand the online file as proposed in the *NPRM* to include radio, cable,

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online expansion IT effort in 2015. Over the three year period of this collection, the total cost attributable to cable will be \$323,000³, or an average of **\$107,667** per year.⁴

15. If the proposed requirements are adopted by the Commission in a final rulemaking, a reduction of 21,000 burden hours and increase of \$591,840 in annual costs will be added to OMB's inventory.

16. The results of this information collection requirement will not be published.

17. The Commission is not seeking approval not to display the expiration date for OMB approval of this information because the collection does not include a form number.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.

DBS and SDARS will be \$1.2 million, and that total annual costs to maintain the online file will be \$250,000. We estimate that 19% of these costs are attributable to cable, as the number of cable entities proposed to be added to the online file is approximately 19% of the total number of entities the *NPRM* proposes to add to the online file database for a total cost of \$228,000 for the first year and \$47,500 thereafter.

³ This number was calculated as follows: \$228,000 + \$47,500 + \$47,500 = \$323,000.

⁴ This number was calculated as follows: \$323,000 ÷ 3 = \$107,667.