

SUPPORTING STATEMENT

A. Justification:

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The information collection requirements covered by this Supporting Statement are codified in Section 73.1216 of the Commission's rules (the "Contest Rule"), 47 C.F.R. § 73.1216, which the Commission adopted on September 8, 1976 and released on September 16, 1976. *See Amendment of Part 73 of the Commission's Rules Relating to Licensee-Conducted Contests*, Report and Order, 60 F.C.C.2d 1072 (1976), FCC 76-854. Although the Commission adopted this rule (which has not since been amended) prior to enactment of the Paperwork Reduction Act, it has not obtained clearance from the Office of Management and Budget (OMB) for the information collections contained therein, as required by 5 C.F.R. § 1320.14. As such, these requirements constitute existing information collections in use without an OMB Control Number. Commission staff discovered the lack of OMB approval for the requirements during the course of a rulemaking proceeding proposing to amend them.

The Commission adopted the Contest Rule in 1976 to address concerns about the manner in which broadcast stations were conducting contests over the air. The Contest Rule, among other things, requires broadcast stations: (i) to disclose material contest terms fully and accurately; (ii) to conduct contests substantially as announced or advertised; (iii) to disclose material terms the first time the audience is told how to enter or participate and periodically thereafter; and (iv) to disclose material terms through broadcast announcements. These information collection requirements are necessary to ensure that broadcast licensees conduct contests with due regard for the public interest.

The Commission adopted the requirements pursuant to its authority in Sections 1, 4, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154. Complaints alleging violations of the Contest Rule generally are filed on FCC Forms 2000E, 2000A or 2000F (OMB Control Number 3060 0874).

There are no impacts under the Privacy Impact Act.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information required to be disclosed is used by station viewers and listeners to learn about material contest terms and any changes to such terms. Such information allows the public to determine whether and, if so, how to participate in station contests. The Contest Rule defines

“material terms” as “those factors which define the operation of [a] contest and which affect participation therein.” See 47 C.F.R. § 73.1216, Note 1(b). Although material terms may vary depending on the contest, such terms generally include information about how to enter or participate; eligibility restrictions; entry deadline dates; whether prizes can be won; when prizes can be won; the extent, nature and value of prizes; basis for valuation of prizes, time and means of selection of winners; and/or tie-breaking procedures. See *id.* The disclosure requirements also allow the Commission to monitor a broadcast station's compliance with the Contest Rule and determine whether the station is fulfilling its public interest obligations.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration of using information technology to reduce the burden.

The information collections are third party disclosure requirements. Because the Contest Rule requires that material contest terms be disclosed via broadcast announcements, compliance with the rule can involve the use of automated and electronic means. When the Contest Rule was adopted in 1976, the broadcast medium likely was considered to be the most effective means for disclosing contest information to potential contest participants. Thus, the Commission concluded that broadcast licensees could not comply with their disclosure obligations through non-broadcast methods.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

No other agency imposes similar information collection requirements on the respondents.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize the burden.

The burdens associated with the third party disclosure requirements could have a disproportionate adverse impact on small broadcast stations. In such cases, a station may seek waiver of such requirements pursuant to Section 1.3 of the Commission's rules.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the information collections are not conducted or are conducted less frequently, the public would not have access to important contest information. In addition, the Commission would be unable to monitor whether broadcast licensees were conducting contests consistent with the public interest.

7. Explain any special circumstances that would cause an information collection to be

conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5 (e.g. payment to respondents, disclosure of proprietary information, etc.):

There are no special circumstances that would cause an information collection to be conducted in a manner inconsistent with the guidelines set forth in 5 CFR 1320.5.

8. (a) If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

(b) Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

(c) Consultation with representatives of those from whom information is to be obtained, or those who must compile records, should occur at least once every three years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that mitigate against consultation in a specific situation. These circumstances should be explained.

The Commission published a notice in the Federal Register (80 FR 5530) on February 2, 2015 seeking comments from the public on the information collection requirements contained in this collection. No comments were received from the public.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift was provided to the respondent that is associated with this collection of information.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The disclosure requirements relate to information that are not of a confidential nature.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection does not raise any questions or issues of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents if desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

Provide estimates of annualized costs to respondents for the hour burdens for collection of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying out-side parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

We report the following burdens to respondent stations, which are based on Commission staff's estimates of the amount of time and cost involved in: (i) disclosing material contest terms fully and accurately; (ii) conducting contests substantially as announced or advertised; and (iii) broadcasting material terms the first time the audience is told how to enter or participate and periodically thereafter. These burdens are based on an assumption that, on average, a broadcast station will comply with its disclosure obligation through 30-second announcements aired three times daily for any given contest. In addition, the burden estimates assume that it would take about one hour for respondent to develop a 30-second radio or television contest disclosure. Actual hour and cost burdens for individual stations will vary based on factors such as the nature and complexity of contest terms, frequency of announcements, and number and duration of contests.

Annual Hour Burden to Disclose Material Contest Terms Fully and Accurately					
Respondents	Number of Respondents/ Responses	Respondent's Hourly Burden	Annual Burden Hours	Hourly In-House Cost	Annual In-House Cost
Commercial Radio Stations	11,175	1 hour	11,175	\$33.52/hr	\$374,586.00
Noncommercial Educational Radio Stations	4,250	1 hour	4,250	\$33.52/hr	\$142,460.00

Low Power FM Stations	814	1 hour	814	\$33.52/hr	\$27,285.28
Commercial TV Stations	1,387	1 hour	1,387	\$33.52/hr	\$46,492.24
Noncommercial Educational TV Stations	395	1 hour	395	\$33.52/hr	\$13,240.40
Class A TV Stations	432	1 hour	432	\$33.52/hr	\$14,480.64
LPTV Stations	2,028	1 hour	2,028	\$33.52/hr	\$67,978.56
TOTALS	20,481	1 hour	20,481	\$33.52/hr	\$686,523.12

Annual Hour Burden to Conduct Contests Substantially as Announced or Advertised¹					
Respondents	Number of Respondents/ Responses	Respondent's Hourly Burden	Annual Burden Hours	Hourly In-House Cost	Annual In-House Cost
Commercial Radio Stations	11,175	.25 hour	2,793.75	\$33.52/hr	\$93,646.50
Noncommercial Educational Radio Stations	4,250	.25 hour	1,062.5	\$33.52/hr	\$35,615.00
Low Power FM Stations	814	.25 hour	203.5	\$33.52/hr	\$6,821.32
Commercial TV Stations	1,387	.25 hour	346.75	\$33.52/hr	\$11,623.06
Noncommercial Educational TV Stations	395	.25 hour	98.75	\$33.52/hr	\$3,310.10
Class A TV Stations	432	.25 hour	108	\$33.52/hr	\$3,620.16
LPTV Stations	2,028	.25 hour	507	\$33.52/hr	\$16,994.64
TOTALS	20,481	.25 hour	5,120 (rounded)	\$33.52/hr	\$171,630.78

Annual Hour Burden to Broadcast Material Contest Terms the First Time the Audience is Told How to Enter or Participate and Periodically Thereafter²

¹ The Commission has interpreted this requirement to impose on stations an obligation to broadcast changes to material contest terms. Thus, these burdens reflect the estimated time to revise a contest announcement.

² The Commission has estimated the burdens for this requirement based on an assumption that a station would

Respondents	Number of Respondents/ Responses	Respondent's Hourly Burden	Annual Burden Hours	Hourly In-House Cost	Annual In-House Cost
Commercial Radio Stations	11,175	9 hours	100,575	\$42.90/hr	\$4,314,667.50
Noncommercial Educational Radio Stations	4,250	9 hours	38,250	\$42.90/hr	\$1,640,925.00
Low Power FM Stations	814	9 hours	7,326	\$42.90/hr	\$314,285.40
Commercial TV Stations	1,387	9 hours	12,483	\$42.90/hr	\$535,520.70
Noncommercial Educational TV Stations	395	9 hours	3,555	\$42.90/hr	\$152,509.50
Class A TV Stations	432	9 hours	3,888	\$42.90/hr	\$166,795.20
LPTV Stations	2,028	9 hours	18,252	\$42.90/hr	\$783,010.80
TOTALS	20,481	9 hours	184,329	\$42.90/hr	\$7,907,714.10

Total Number of Annual Respondents/Responses: 20,481

Total Annual Burden Hours: 20,481 + 5,120 + 184,329 = 209,930 hours

Total Annual In-house Cost: \$686,523.12 + \$171,630.78 + \$7,907,714.10 = \$8,765,868.00

13. Provide an estimate of total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers

comply with its disclosure obligations through 30-second announcements aired three times per day over the course of one year. The air time used for such announcements is estimated to be \$10 per four-second spot, for a total of \$75 for a 30-second spot. Thus, if a contest announcement is played three times per day, the cost to the station for air time would be \$225 per day, or \$9.38 per hour. This amount is added to the \$33.52 hourly rate paid to the station employee responsible for the broadcast announcements for a total hourly rate of \$42.90.

and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

Annual Hour Burden to Disclose Material Contest Terms Fully and Accurately³			
Respondents	Number of Respondents/ Responses	Consultation Costs Per Hour	Consultation Costs
Commercial Radio Stations	11,175	1 hr x \$300/hr = \$300	\$3,352,500.00
Noncommercial Educational Radio Stations	4,250	1 hr x \$300/hr = \$300	\$1,275,000.00
Low Power FM Stations	814	1 hr x \$300/hr = \$300	\$244,200.00
Commercial TV Stations	1,387	1 hr x \$300/hr = \$300	\$416,100.00
Noncommercial Educational TV Stations	395	1 hr x \$300/hr = \$300	\$118,500.00
Class A TV Stations	432	1 hr x \$300/hr = \$300	\$129,600.00
LPTV Stations	2,028	1 hr x \$300/hr = \$300	\$608,400.00
TOTALS	20,481	\$300	\$6,144,300.00

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

The estimated annual cost to the Federal government to process 37 complaints⁴ is **\$11,681.64**. The breakdown of costs is as follows:

Two (2) GS-15/Step 5 Attorneys
 $\$68.56 \times 2 \text{ attorneys} \times 2 \text{ hours per complaint}^5 = \$274.24 \times 37 \text{ complaints} = \$10,146.88$

³ The Commission has estimated the hour burden for this requirement based on an assumption that a station would use an outside attorney for one hour, at \$300 per hour.

⁴ The Commission received 34 Contest Rule Violation Complaints in 2011, 46 complaints in 2012, 39 complaints in 2013, and 29 complaints in 2014 for an average of 37 complaints over the past four years.

⁵ The Commission anticipates that the burden for Federal government attorneys will consist of responding to and processing complaints for violations of the Contest Rule.

Two (2) GS-12/Step 5 Industry Analysts

$\$41.48 \times 2 \text{ analysts} \times .5 \text{ hours per complaint}^6 = \$41.48 \times 37 \text{ complaints} = \$1,534.76$

$\$10,146.88 \text{ cost for attorneys} + \$1,534.76 \text{ costs for analysts} = \mathbf{\$11,681.64}$ estimated annual costs to the Federal government to process 37 complaints.

15. Explain reasons for any program changes or adjustments to this collection.

There are program changes/increases to this collection which are as follows: 20,481 respondents, 20,481 responses, 209,930 burden hours and \$6,144,300 in annual cost which are due to the information collection requirements adopted in FCC 76-854 for Section 73.1216.

16. For collection of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The Commission does not intend to publish the results of these collections of information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

Part B. Collections of Information Employing Statistical Methods.

The Commission does not anticipate that the information collection will employ any statistical methods.

⁶ The Commission anticipates that the burden for Federal government industry analysts will consist of the intake and referral of complaints for violations of the Contest Rule.