

OMB Control Number: 3060-0316

February 2016

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:

Information Collection Requirements: Circumstances Necessitating Change to Information Collection

The Commission is revising this collection to reflect the Commission's adoption of a *Report and Order* ("R&O") in MB Docket No. 14-127, FCC 16-4, *In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, adopted on January 28, 2016. The R&O revised 47 C.F.R. Sections 76.1700 and 76.1702(a).

The R&O expands 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 took 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 took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required 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 exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

Section 76.1700 addresses the records to be maintained by cable system operators. The R&O revised Section 76.1700 to require that cable operators maintain their public inspection file online on the website hosted by the FCC. In addition, the Commission reorganized 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 clarified 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 is not required to be included in the public inspection file or in the online public inspection file.

The Commission phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements. The R&O also made several minor additional changes to the existing cable public file requirements - it requires operators, when first establishing their online public file, to provide a list of the zip codes served by the system and requires them to identify the employment unit(s) associated with the system. The R&O also requires cable systems to provide the contact information for their local file. In addition, each cable system must place the address of its local public file in the Commission's online file unless the system has fully transitioned to the FCC's online public file (*e.g.*, posts online all public and political file material required to be maintained in the public

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inspection file) and also provides online access via the system's own website to back-up political file material in the event the online file becomes temporarily unavailable.

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 R&O does not adopt new or modified public inspection file requirements. The Commission's goal was simply to adapt the existing cable public file requirements to an online format.

47 CFR Section 76.1700 requires cable system operators to place the public inspection file materials required to be retained by the following rules in the online public file hosted by the Commission, with the exception of existing political file material which cable systems may continue to retain in their local public file until the end of the retention period: 76.1701 (political file), 76.1702 (EEO), 76.1703 (commercial records for children's programming), 76.1705 (performance tests – channels delivered); 76.1707 (leased access); and 76.1709 (availability of signals), 76.1710 (operator interests in video programming), 76.1715 (sponsorship identification), and 76.630 (compatibility with consumer electronics equipment. Cable systems with fewer than 5,000 subscribers may continue to retain their political file locally and are not required to upload new political file material to the online public file until March 1, 2018. In addition, cable systems may elect to retain the material required by 76.1708 (principal headend) locally rather than placing this material in the online public file.

47 CFR 76.1700(b) requires cable system operators to make the records required to be retained by the following rules available to local franchising authorities: 76.1704 (proof-of-performance test data) and 76.1713 (complaint resolution).

47 CFR Section 76.1700(c) requires cable system operators to make the records required to be retained by the following rules available to the Commission: 76.1704 (proof-of-performance test data), 76.1706 (signal leakage logs and repair records), 76.1711 (emergency alert system and activations), 76.1713 (complaint resolution), and 76.1716 (subscriber records).

47 CFR Section 76.1700(d) exempts cable television systems having fewer than 1,000 subscribers from the online public file and 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).

47 CFR Section 76.1700(e) requires that public file material that continues to be retained at the system be retained in a public inspection file 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). Public files must be available for public inspection during regular business hours.

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47 CFR Section 76.1700(f) requires cable systems to provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the system has a website, and provide contact information on its website for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system.

47 CFR Section 76.1700(g) requires that cable operators make any material in the public inspection file that is not also available in the Commission's online file available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies must be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

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 76.1702(b). These materials shall be placed in the Commission's online public inspection file for each cable system associated with the employment unit. These materials must be placed in the Commission's online 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. 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 in the Commission's online public file for every cable system associated with the headquarters employment unit.

The requirements listed below have not changed since last approved by OMB. The only requirements that are impacted by FCC 16-4 are contained in Section 76.1700 and 76.1702(a), as described under question 1 of this supporting statement. All other requirements remain unchanged.

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.

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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.

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 adopted in the *R&O* involve automated, electronic collection techniques. Prior to the *R&O*, cable operators had 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 adopted in the *R&O* require cable systems 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.

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5. This information collection does not impact small entities. The R&O exempts cable systems with fewer than 1,000 subscribers from all online public file requirements.
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. The Commission did not receive any comments 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 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.

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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 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. The following program changes have occurred to this collection which are due to the information collection requirements adopted in FCC 16-4: a reduction of 21,000 burden hours and increase of \$591,840 in annual costs.

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.

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 to include radio, cable, 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 being added 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.