

## SUPPORTING STATEMENT

### A. Justification:

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

On October 23, 2018, the Commission adopted and released a Report and Order, FCC 18-145 (*Report and Order*). In the *Report and Order*, the Commission made non-substantive changes to the information collection requirements contained in Sections 73.3526 and 73.3527 of the Commission's rules.

Pursuant to information collection requirements that the Office of Management and Budget (OMB) previously approved for this collection, licensees and permittees of commercial and noncommercial educational (NCE) broadcast stations are currently required to make the documents listed in their ownership reports available for public inspection via the FCC-hosted online public inspection file (OPIF). Specifically, licensees and permittees must either (i) upload the documents directly to the OPIF or (ii) maintain an up-to-date list of the documents in the OPIF and provide copies to requesting parties within seven days. In addition, previously licensees and permittees were also required to file paper copies of the documents with the Commission within 30 days of execution of such documents, including amendments, supplements, and cancellations. See OMB Control No. 3060-0185, Section 73.3613, Filing of Contracts.

In the *Report and Order*, the Commission decided to eliminate the routine paper filing requirement and rely instead on its existing OPIF rules in Sections 73.3526 and 73.3527. To ensure that the Commission and the public continue to have timely access to the relevant documents, the Commission revised Sections 73.3526(e) and 73.3527(e) to require that licensees and permittees update the documents in the OPIF within the same 30-day timeframe previously required under the eliminated paper filing requirement.

The Commission also revised Sections 73.3526(e)(5) and 73.3527(e)(4) to require that licensees and permittees that list the required documents in the OPIF include on their list all of the information that they are already required provide for such documents on broadcast ownership reports. Specifically, for each document, the list must include a description of the document, the parties to the document, the month and year of execution, the month and year of expiration, and the document type. See OMB Control No. 3060-0010, Ownership Report for Commercial Broadcast Stations, FCC Form 323; OMB Control No. 3060-0084, Ownership Report for Noncommercial Educational Broadcast Stations, FCC Form 323-E. In many instances, this information will already be in the OPIF, because as discussed below, the current OPIF rules already require that licensees and permittees retain in the OPIF a copy of the most recent broadcast ownership report for the station, which includes this information. Therefore,

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we believe that these revisions to Sections 73.3526(e)(5) and 73.3527(e)(4) will not significantly impact the costs or burden hours for this collection.

In addition to the changes discussed above, the Commission also revised Section 73.3526(e)(5) and 73.3527(e)(4) by replacing references to “the contracts listed in [broadcast ownership] reports” with direct references to the Commission rule specifying the documents that licensees and permittees are required to list on broadcast ownership reports. The Commission also revised §§ 73.3526(e)(5) and 73.3527(e)(4) to expand from a subset of the documents to all the relevant documents an existing allowance that explicitly provides for redaction of confidential or proprietary information.

The revised information collection requirements are as follows:

**47 CFR Section 73.3526** – The amendments were made to this section by revising paragraphs (e)(5), (e)(14), and (e)(16) to read as follows:

(e)(5) *Ownership reports and related materials.* A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the station documents listed in §73.3613(a)–(c) or an up-to-date list of such documents. If the permittee or licensee elects to maintain an up-to-date list of such documents, the list must include all the information that the permittee or licensee is required to provide on ownership reports for each document, including, but not limited to, a description of the document, the parties to the document, the month and year of execution, the month and year of expiration, and the document type (e.g., network affiliation agreement, articles of incorporation, bylaws, management consultant agreement with independent contractor). Regardless of which of these two options the permittee or licensee chooses, it must update the inventory of §73.3613 documents in the public file to reflect newly executed §73.3613 documents, amendments, supplements, and cancellations within 30 days of execution thereof. Licensees and permittees that choose to retain a list of §73.3613 documents must provide a copy of any §73.3613 document(s) to requesting parties within 7 days. In maintaining copies of such documents in the public file or providing copies upon request, confidential or proprietary information may be redacted where appropriate.

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(14) *Radio and television time brokerage agreements.* For commercial radio and television stations, a copy of every agreement or contract involving time brokerage of the licensee’s station or of another station by the licensee, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate. These agreements shall be placed in the public file within 30 days of execution and retained in the file as long as the contract or agreement is in force.

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(16) *Radio and television joint sales agreements.* For commercial radio and commercial television stations, a copy of agreement for the joint sale of advertising time involving the station, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate. These agreements shall be placed in the public file within 30 days of execution and retained in the file as long as the contract or agreement is in force.

**47 CFR Section 73.3527** – The amendments were made to this section by revising paragraphs (e)(4) to read as follows:

(e)(4) *Ownership reports and related materials.* A copy of the most recent, complete ownership report filed with the FCC for the station, together with any subsequent statement filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the station documents listed in §73.3613(a)–(c) or an up-to-date list of such documents. If the permittee or licensee elects to maintain an up-to-date list of such documents, the list must include all the information that the permittee or licensee is required to provide on ownership reports for each document, including, but not limited to, a description of the document, the parties to the document, the month and year of execution, the month and year of expiration, and the document type (e.g., network affiliation agreement, articles of incorporation, bylaws, management consultant agreement with independent contractor). Regardless of which of these two options the permittee or licensee chooses, it must update the inventory of §73.3613 documents in the public file to reflect newly executed §73.3613 documents, amendments, supplements, and cancellations within 30 days of execution thereof. Licensees and permittees that choose to maintain a list of §73.3613 documents must provide a copy of any §73.3613 document(s) to requesting parties within 7 days. In maintaining copies of such documents in the public file or providing copies upon request, confidential or proprietary information may be redacted where appropriate.

**History:**

The Commission first adopted a public inspection file requirement more than 50 years ago.<sup>1</sup> The public file requirement grew out of Congress’ 1960 amendment of Sections 309 and 311 of the Communications Act of 1934.<sup>2</sup> Finding that Congress, in enacting these provisions, was guarding “the right of the general public to be informed, not merely the rights of those who have special interests,”<sup>3</sup>

<sup>1</sup> *Report and Order in Docket No. 14864*, 4 R.R.2d 1664, 1667 (1965); recon. granted in part and denied in part 6 R.R.2d 1527 (1965)

<sup>2</sup> 47 U.S.C. §§ 309,311.

<sup>3</sup> *Report and Order in Docket No. 14864*, 4 R.R.2d at 1666 (*citing, e.g.,* Senate Report No. 690, 86<sup>th</sup> Cong., 1<sup>st</sup> Sess., to

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the Commission adopted the public inspection file requirement to “make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.”<sup>4</sup> In return for their exclusive use of public spectrum, broadcasters must operate and program their stations in the “public interest, convenience and necessity.”<sup>5</sup> This means that all stations must be responsive and accountable to their local community of license. The manner in which broadcasters communicate with their communities is a core function of their role as licensees. Specific items in the public file, listed below, include items that provide station information to the public, like ownership reports, contour maps, citizen agreements, EEO reports and quarterly lists of programs that the stations believe addressed important issues in their community. Access to the public inspection file allows the public to monitor a station's public interest performance. The information provided in a station’s public file enables citizens to engage in an informed dialog with their local stations or to file complaints or petitions to deny the renewal of a station’s license.<sup>6</sup> Comments, complaints, and petitions to deny filed by the viewing public have long been a part of the regulatory and the renewal process.<sup>7</sup> As part of the Commission’s license renewal process, the Commission does not routinely monitor every aspect of stations’ compliance with Commission rules; rather, it depends on viewers and listeners to provide information about whether stations are meeting their public interest obligations. The Commission subsequently sought and received approval to replace the requirement that commercial and noncommercial television stations maintain a paper public file at their main studios with a requirement to submit documents for inclusion in an online public file to be hosted by the Commission.

**Except as discussed above, the requirements listed below have not changed since last approved by OMB. The only requirements that are affected by FCC 18-145 are contained in Sections 73.3526(e)(5), (e)(14), (e)(16), and 73.3527(e)(4). The revisions are explained above under question 1 of this supporting statement. All other requirements remain unchanged.**

**47 CFR Sections 73.3526(a) and 73.3527(a):** 47 CFR Sections 73.3526(a) and 73.3527(a) require that licensees and permittees of commercial and noncommercial educational (NCE) broadcast stations maintain a public inspection file. The contents of the file vary according to type of service and status. A separate file shall be maintained for each station for which an application is pending or for which an authorization is outstanding. The public inspection file must be maintained so long as an authorization to operate the station is outstanding.

**47 CFR Sections 73.3526(b) and 73.3527(b)** require that the public inspection file be maintained at the

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accompany S. 1898, “New Pre-Grant Procedure” (Aug. 12, 1969) page 2).

<sup>4</sup> *Report and Order in Docket No. 14864*, 4 R.R.2d 1664, 1667 (1965); *recon. granted in part and denied in part* 6 R.R.2d 1527 (1965).

<sup>5</sup> 47 U.S.C. § 307(c)(1), 309(a).

<sup>6</sup> *Office of Communication of United Church of Christ v. FCC*, 359 F.2d 994, 1009 ( D.C. Cir., 1966).

<sup>7</sup> *See Deregulation of Radio*, Second Report and Order, 96 FCC 2d 930 (1984).

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main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio. The 2012 *Second Report and Order* changed this subsection to require commercial and noncommercial television stations to maintain their public inspection file on an online public file to be hosted by the Commission, instead of being maintained at the main studio of the station, with the exception of letters and emails from the public, which were required to continue to be maintained at the station. The 2016 *Expanded Online File R&O* changed this subsection to require commercial and noncommercial radio stations to maintain their public inspection file in the Commission’s online public file, with the exception of letters and emails from the public, which were required to continue to be maintained at the station. Commercial radio stations in the top 50 Nielsen Audio markets with 5 or more full-time employees were required to commence placing new public file material in the online public file on June 24, 2016. All other radio stations are permitted to continue to retain the public inspection file at the station until March 1, 2018, but may voluntarily transition to the online public file before that date. Stations must also provide a link to the online file from the home page of their own websites, if they have one, and provide contact information for a station representative on their websites who can assist persons with disabilities with issues related to the content of the public files. Stations are also required to include in the online public file the station’s main studio address and telephone number and the email address of the station’s designated contact for questions about the public file.

With respect to the station’s political file, new material must be placed in the online file hosted by the Commission, but existing political inspection file material may continue to be retained at the station. Commercial radio stations in the top 50 Nielsen Audio with 5 or more full-time employees were required to commence placing new political file material in the online public file on June 24, 2016. All other radio stations may continue to retain the political file at the station until March 1, 2018. For these stations, beginning March 1, 2018, any new political file material must be placed in the online file hosted by the Commission, while other political file material may be retained at the station until the end of the retention period. Stations not required to place their political file on the Commission’s website before March 1, 2018 may choose to do so instead of retaining the political file at the station.

**47 CFR Sections 73.3526(c) and 73.3527(c)** require the licensee/permittee to make the local public file available for public inspection at any time during regular business hours. All or part of this file may be maintained in a computer database as long as a computer terminal is made available to members of the public. Materials in the public file must be made available for review, printing or reproduction upon request.

Licensees that maintain their main studios and public file outside their communities of license<sup>8</sup> are required to mail a copy of “The Public and Broadcasting”<sup>9</sup> to anyone requesting a copy. Licensees shall

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<sup>8</sup> Every broadcast station is permitted or licensed to a designated community, the needs and interests of which the station primarily serves. The station is required to place a signal of a certain strength over the entirety of its community of license, and is required to provide programming to serve its community of license. See, e.g., 47 U.S.C. § 307(b); 47 CFR §§ 73.24(i), 73.315(a).

<sup>9</sup> This manual provides a brief overview of the regulation of broadcast radio and television.

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be prepared to assist members of the public in identifying the documents they may want to be sent to them by mail.

As a result of a recent FCC order (see FCC 17-137, rel. Oct. 24, 2017), an applicant, permittee, or licensee must provide information regarding the location of the public file, or the applicable portion of the file, within one business day of a request for such information.

**47 CFR Sections 73.3526(d) and 73.3527(d)** require an assignor to maintain the public inspection file until such time as the assignment is consummated. At that time, the assignee is required to maintain the file.

**47 CFR Sections 73.3526(e) and 73.3527(e)** specify the contents of the public inspection files. Separate rule sections not subject to this information collection require the creation and submission to the Commission of many of the items that must be retained in the public inspection file. As such, the burden estimates for creation and submission of these documents are calculated in other information collections. The burden estimates included in this information collection pertain only to making these items publicly available. We have listed below some of the relevant information collections pertaining to the creation and submission of such documents. The documents to be retained in the public inspection files are as follows:

(a) A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization;

(b) A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decision and Final Decisions in hearing cases. If petitions to deny are filed against the application, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition [Application for Construction Permit for Commercial Broadcast Station (OMB control number 3060-0027, FCC Form 301; Application for New Commercial or Noncommercial Educational Broadcast Station License (OMB control number 3060-0029, FCC Form 340); Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications (OMB control number 3060-0031)];

(c) For commercial broadcast stations, a copy of every written citizen agreement;<sup>10</sup>

(d) A copy of any service contour maps, submitted with any application, together with any other

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<sup>10</sup> A citizen agreement is an agreement between a licensee and one or more citizens that deal with goals or proposed practices that affect station operations in the public interest in areas such as - but not limited to - programming and employments.

information in the application showing service contours and/or main studio and transmitter location;

(e) A copy of the most recent, complete Ownership Report (FCC Form 323) filed with the FCC for the station, together with any statements filed with the FCC certifying that the current Report is accurate [Ownership Report for Broadcast Station (OMB control number 3060-0010, FCC Form 323); Ownership Report for Noncommercial Educational TV, FM or Standard Broadcast Station (OMB control number 3060-0084, FCC Form 323-E)];

(f) A political file of records required by 47 CFR Section 73.1943 concerning broadcasts by candidates for public office [Section 73.1942, Candidates Rates, 76.206, Candidates Rates, Section 76.1611, Political Cable Rates and Classes of Time (OMB control number 3060-0501)];

(g) An Equal Employment Opportunity File required by 47 CFR Section 73.2080 [Broadcast EEO Program Report, FCC Form 396 (OMB control number 3060-0113); Multi-Channel Video Program Distributor EEO Program Annual Report, (OMB control number 3060-1033, FCC Form 396-C)].

(h) A copy of the most recent edition of the manual entitled "The Public and Broadcasting;"

(i) Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant/permittee/licensee has been advised;

(j) For commercial radio and TV broadcast stations and non-exempt NCE broadcast stations, a list of programs that have provided the station's most significant treatment of community issues. This list is kept on a quarterly basis and contains a brief description of how each issue was treated;

(k) For commercial TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's television programming. The records must be placed in the public file quarterly. The FCC Form 398, Children's Television Programming Reports, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children must be placed in the public file quarterly [Children's Television Programming Report (OMB control number 3060-0754, FCC Form 398)];

(l) For NCE stations, a list of donors supporting specific programs. The list is to be retained for two years from the date of the broadcast of the specific program supported, and will be reserved for sponsors/underwriters of specific programming;

(m) Each applicant for renewal of license shall place in the public file a statement certifying compliance with the pre-filing and post-filing local public notice announcements. These statements shall be placed in the public file within 7 days of the last day of broadcast [Section 73.3580, Local Public Notice of Filing of Broadcast Applications (OMB control number 3060-0031)];

(n) Commercial radio and TV licensees who provide programming to another licensee's station, pursuant to time brokerage agreements, are required to keep copies of those agreements in their public inspection files, with confidential information blocked out where appropriate;

(o) Commercial TV stations must make an election between retransmission consent and must-carry status once every three years. Television stations that fail to make an election will be deemed to have elected must-carry status. This statement must be placed in the station's public inspection file. This rule codifies Section 325(b)(3)(B) of the Communications Act of 1934, as amended [Section 73.1601, Deletion of Repositioning of Broadcast Signals; Section 76.1617, Initial Must-Carry Notice; and Sections 76.1697 and 76.1708, Principal Headend (OMB control number 3060-0649)];

(p) NCE television stations requesting mandatory carriage on any cable system pursuant to 47 CFR Section 76.56 shall place in its public file the request and relevant correspondence; and

(q) Commercial radio and TV licensees who have entered into joint sales agreements must place the agreements in the public inspection file, with confidential and propriety information blocked out where appropriate.

(r) Commercial TV licensees who have entered into shared service agreements must place the agreements in the public inspection file, with confidential and proprietary information blocked out where appropriate.

**47 CFR Section 73.1202** - This rule section is reserved and the information collection requirements which were contained in it has been removed. The rule formerly required commercial broadcast stations to retain in the public inspection file written comments and suggestions from the public regarding operation of the station.

**47 CFR Sections 73.1212(e), 73.1943 and 76.1701** require licensees of broadcast stations and every cable television system to keep and permit public inspection of a complete record (political file) of all requests for broadcast and cablecast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file as soon as possible and maintained for a period of two years. 47 CFR Sections 73.1212(e) and 76.1701 also require that, when an entity sponsors broadcast or cablecast material that concerns a political matter or a discussion of a controversial issue of public importance, a list must be maintained in the public file of the system that includes the sponsoring entity's chief executive officers, or members of its executive committee or of its board of directors. Section 73.1943(d) requires licensees and applicants to post all of the contents added to its political file after



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the effective date of this paragraph in the political file component of its online public file hosted by the Commission. A station must retain in its political file maintained at the station, at the location specified in §73.3526(b) or §73.3527(b), all material required to be included in the political file and added to the file prior to the effective date of this paragraph, unless the station elects voluntarily to place these materials in the Commission’s online public file. The online political file must be updated in the same manner as paragraph (c) of this section. [Sections 73.1212, 76.1615 and 76.1715, Sponsorship Identification (OMB control number 3060-0174); Section 73.1942, Candidates Rates, 76.206, Candidates Rates, Section 76.1611, Political Cable Rates and Classes of Time (OMB control number 3060-0501)].

**Satellite Radio Licensees** - Satellite Radio (also referred to as “Satellite Digital Audio Radio Services” or “SDARS”) licensees are required to comply with the Commission’s EEO broadcast rules and policies, including public file obligations and periodic submissions to the Commission. *See Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee*, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008) (“*XM-Sirius Merger Order*”). *See also Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, 12 FCC Rcd 5754, 5791-92, ¶¶ 91-92 (1997) (“*SDARS Order*”), FCC 97-70. <sup>11</sup>

The personally identifiable information (PII) in this information collection is in part covered by the system of records notice (SORN), FCC/MB-1, “Ownership of Commercial Broadcast Stations,” 74 FR 59978 (2009). The Commission is currently drafting a Privacy Impact Assessment (PIA) for the records covered by this SORN.

The Commission has also prepared a second system of records notice, FCC/MB-2, “Broadcast Station Public Inspection Files,” that will cover the PII contained in the broadcast station public inspection files to be located on the Commission’s website. The Commission is also drafting a PIA for the records covered by this SORN.

Statutory authority for this collection of information is contained in Sections 151, 152, 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended.

**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 public and FCC use the information in the public file to evaluate information about the broadcast licensee’s performance, to ensure that broadcast stations are addressing issues concerning the community which it is licensed to serve and to ensure that stations entering into time brokerage agreements comply

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<sup>11</sup> SDARS licensees must also comply with the Commission’s political broadcasting requirements, including the requirement to maintain a political file. The burdens associated with those requirements are reflected in OMB Control No. 3060-1207.

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with Commission policies pertaining to licensee control and to the Communications Act and the antitrust laws.<sup>12</sup> Placing joint sales agreements in the public inspection file facilitates monitoring by the public, competitors and regulatory agencies.

Television broadcasters are required to send each cable operator in the station's market a copy of the election statement applicable to that particular cable operator. Placing these retransmission consent/must-carry elections in the public file provide public access to documentation of station's elections which are used by cable operators in negotiations with television stations and by the public to ascertain why some stations are/are not carried by the cable systems.

Maintenance of political files by broadcast stations and by cable television systems enables the public to assess money expended and time allotted to a political candidate and to ensure that equal access was afforded to other legally qualified candidates for public office.

Placing SSAs in the public inspection file will facilitate comprehensive examination by the Commission and the public about the prevalence and content of SSAs between commercial television stations, which will improve the Commission's and the public's ability to assess the potential impact of these agreements on the Commission's rules and policies.

**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 for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

This collection involves automated electronic collection techniques. This item requires radio and television licensees, cable operators, and SDARS licensees to post their public files to the Commission's website, making the public files available over the Internet.

**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 a similar information collection on the respondents. There are no similar data available.

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

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<sup>12</sup> *In the Matter of Review of the Commission's Regulations Governing Attribution of Broadcast and Cable/MDS Interests*, Report and Order, 14 FCC Rcd 12559, 12601 (1999); *Revision of Radio Rules and Policies*, Report and Order, 7 FCC Rcd 2755, 2789 (1992), *recon.*, *Memorandum Opinion and Further Notice of Proposed Rule Making*, 7 FCC Rcd 6387 (1994), *further recon.*, *Second Memorandum Opinion and Order*, 9 FCC Rcd 7183 (1994).

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This information collection does not impose any significant economic impact on a substantial number of small businesses/entities. However, any entity can request a waiver of the Commission's rules, under 47 CFR § 1.3, which allows the Commission to waive rules where good cause has been shown.

**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 contained in the public file were not retained on a regular basis, the Commission and the public would not have timely information to evaluate a broadcaster's public service record. For example, the time brokerage agreements and joint sales agreements placed in the public file provide information not available elsewhere. Similarly, the shared service agreements subject to this information collection are not available from any source other than the respondents.

**7. Explain any special circumstances that cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

With the exception of the political file, there are no special circumstances that require respondents to report information more than quarterly. The Communications Act and the Commission's rules require that broadcasters and cable operators place information into the political file "as soon as possible."<sup>13</sup> The Commission has long interpreted "as soon as possible" to mean "immediately absent unusual circumstances."<sup>14</sup> TV and radio stations and cable operators upload records to their online political file immediately absent unusual circumstances. Whether maintained at the station or online, the contents of the political file are time-sensitive.<sup>15</sup> A candidate has only seven days from the date of his or her opponent's appearance to request equal opportunities for an appearance.<sup>16</sup>

There are no special circumstances that require a written response in fewer than 30 days of receipt, or submit more than an original and two copies of any document.

With respect to 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. For

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<sup>13</sup> 47 U.S.C. § 315(e)(3); 47 CFR §§ 73.1943(c), 76.1701(c).

<sup>14</sup> Section 73.1943(c) of the Commission's rules provides that "[a]ll records required by this paragraph shall be placed in the political file as soon as possible . . . . As soon as possible means immediately absent unusual circumstances." 47 CFR § 73.1943(c). *See also* 47 CFR § 76.17019(c).

<sup>15</sup> *See* 47 CFR § 73.1943(c).

<sup>16</sup> *See* 47 CFR § 73.1941(c).

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example, licensees are explicitly authorized to redact information from contracts for the joint sale of advertising time that is confidential or proprietary in nature. *See* 73.3526(e)(16).

While the Commission has instituted procedures to protect confidential information, much of the public file is not confidential. A copy of the current FCC authorization to construct or operate the station must be retained in the public file until replaced by a new authorization. Applications tendered for filing shall be retained until final action has been taken on the application, except that applications for a new construction permit granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. A copy of contour maps shall be retained for as long as they reflect current, accurate information regarding the station. License renewal applications granted on a short-term basis shall be retained until final action has been taken on the license renewal application filed immediately following the shortened license term. Citizen agreements shall be retained for the term of the agreement. Ownership Reports and related materials shall be retained until a new, complete Ownership Report is filed with the FCC. The licensee need not retain a copy of the contracts listed in the Ownership Report so long as the licensee maintains an up-to-date list of such contracts in the file and provides copies of any contracts to requesting parties within 7 days. Political files required by Sections 73.1943 and 76.1701 shall be retained for a period of 2 years. A copy of the 1998 edition of the manual entitled “The Public and Broadcasting” must be retained at all times. Material relating to an FCC investigation or complaint must be retained until notified in writing that the material may be discarded. Donor lists must be retained for two years. The certifications of compliance with the pre-filing and post-filing local public notice announcements of the filing of applications for renewal of license shall be retained for as long as the application to which it refers. Time brokerage agreements<sup>17</sup> and joint sales agreements<sup>18</sup> must be retained as long as the contract or agreement is in force.

Letters and electronic mail messages, issues/program lists, and records concerning commercial limits and Children’s Television Programming Reports must be retained until final action has been taken on the station’s next license renewal application. Television station’s must-carry/retransmission election statements shall be retained for the duration of the three-year election period to which the statement applies.

These retention periods are necessary to provide the public and the FCC timely information to evaluate the station’s performance during its entire license term or over the life of a contract.

**8. 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 prior to submission to OMB.**

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<sup>17</sup> “Time brokerage,” also known as “local marketing,” is the sale by a broadcast licensee of discrete blocks of time to a “broker” that supplies the station with programming to fill that time and sells the commercial spot announcements in that block. Confidential information in these agreements may be redacted. *See also* 47 CFR § 73.3613(d)(1).

<sup>18</sup> A Joint Sales Agreement is an agreement authorizing a broker to sell advertising time for the brokered station in return for a fee paid to the licensee. *See also* 47 CFR § 73.3613(d)(2).

The Commission published a notice in the *Federal Register* seeking public comment on the information collections contained in this supporting statement, see 81 FR 78591, published November 8, 2016. No comments were received from the public on the information collection requirements contained in this collection.

**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.

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

Most of the documents comprising the public file consist of materials that are not of a confidential nature. See Response to Question 7 describing those materials. 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. For example, licensees are explicitly authorized to redact information from contracts for the joint sale of advertising time that is confidential or proprietary in nature, and the requirement to disclose other SSAs also allows for the redaction of information that is confidential or proprietary in nature.

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.

Should respondents submit any PII as part of the information collection requirements, the FCC has an existing system of records, FCC/MB-1, "Ownership of Commercial Broadcast Stations," that may partially cover this PII, as noted in Questions 1 and 11. In addition, the Commission has prepared a second system of records notice, FCC/MB-2, "Broadcast Station Public Inspection Files," that will cover the PII contained in the broadcast station public inspection files to be located on the Commission's website. The Commission is also drafting a PIA for the records covered by this SORN.

**11. Provide additional justification for any questions of a sensitive nature.**

This information collection does not address any private matters of a sensitive nature. Any PII that is submitted as part of the information collection requirements may be covered in part by the system of records notice, FCC/MB-1, as noted in Questions 1 and 10. In addition, the Commission will redact any other personal information before it becomes available for public inspection, at the request of the submitter. The Commission has also prepared a second system of records notice, FCC/MB-2, "Broadcast Station Public Inspection Files," that will cover the PII contained in the broadcast station public inspection files to be located on the Commission's website. The Commission is also drafting a PIA for the records covered by this SORN.

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. 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.

The public burden is estimated as follows:

| <b>Respondents</b>                              | <b>Number of Responses</b> | <b>Respondent's Hourly Burden</b> | <b>Total Annual Burden</b> | <b>Hourly In-House Cost</b> | <b>Annual In-House Cost</b> |
|---|----------------------------|-----------------------------------|----------------------------|-----------------------------|-----------------------------|
| <b>Local Public Inspection Files:</b>           |                            |                                   |                            |                             |                             |
| <i>(1) General Maintenance</i>                  |                            |                                   |                            |                             |                             |
| <b>Commercial Radio Stations</b>                | <b>11,383</b>              | <b>44 hours</b>                   | <b>500,852 hrs.</b>        | <b>\$15.54/hr.</b>          | <b>\$7,783,240</b>          |
| <b>Noncommercial Educational Radio Stations</b> | <b>4,120</b>               | <b>40 hours</b>                   | <b>164,800 hrs.</b>        | <b>\$15.54/hr.</b>          | <b>\$2,560,992</b>          |
| <b>Commercial TV Stations</b>                   | <b>1,377</b>               | <b>49 hours</b>                   | <b>67,473 hrs.</b>         | <b>\$15.54/hr.</b>          | <b>\$1,048,531</b>          |
| <b>Noncommercial Educational TV Stations</b>    | <b>390</b>                 | <b>45 hours</b>                   | <b>17,550 hrs.</b>         | <b>\$15.54/hr.</b>          | <b>\$272,727</b>            |
| <b>Class A Television Stations</b>              | <b>391</b>                 | <b>49 hours</b>                   | <b>19,159 hrs.</b>         | <b>\$15.54/hr.</b>          | <b>\$297,731</b>            |
| <b>SDARS Licensees<sup>19</sup></b>             | <b>1</b>                   | <b>1 hour</b>                     | <b>1 hour</b>              | <b>\$15.54/hr.</b>          | <b>\$15.54</b>              |
| <i>(2) Community Issue List</i>                 |                            |                                   |                            |                             |                             |
| <b>Commercial Radio Stations</b>                | <b>11,383</b>              | <b>52 hours</b>                   | <b>591,916 hrs.</b>        | <b>\$26.00/hr.</b>          | <b>\$15,389,816</b>         |
| <b>Noncommercial Educational Radio Stations</b> | <b>4,120</b>               | <b>52 hours</b>                   | <b>214,240 hrs.</b>        | <b>\$26.00/hr.</b>          | <b>\$5,570,240</b>          |

<sup>19</sup> This respondent makes up the majority of its universe of respondents. Therefore, OMB approval is needed for this collection.

| <b>Respondents</b>                           | <b>Number of Responses</b> | <b>Respondent's Hourly Burden</b> | <b>Total Annual Burden</b> | <b>Hourly In-House Cost</b> | <b>Annual In-House Cost</b> |
|--|----------------------------|-----------------------------------|----------------------------|-----------------------------|-----------------------------|
| <b>Commercial TV Stations</b>                | <b>1,377</b>               | <b>52 hours</b>                   | <b>71,604 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$1,861,704</b>          |
| <b>Noncommercial Educational TV Stations</b> | <b>390</b>                 | <b>52 hours</b>                   | <b>20,280 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$527,280</b>            |
| <b>Class A Television Stations</b>           | <b>391</b>                 | <b>52 hours</b>                   | <b>20,332 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$528,632</b>            |
| <i>(3) Commercial Limits</i>                 |                            |                                   |                            |                             |                             |
| <b>Commercial TV Stations</b>                | <b>1,377</b>               | <b>26 hours</b>                   | <b>35,802 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$930,852</b>            |
| <b>Class A Television Stations</b>           | <b>391</b>                 | <b>26 hours</b>                   | <b>10,166 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$264,316</b>            |
| <i>(4) Must Carry/Retransmission Consent</i> |                            |                                   |                            |                             |                             |
| <b>Noncommercial Educational TV stations</b> | <b>390</b>                 | <b>50 hours</b>                   | <b>19,500 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$507,000</b>            |
| <b>Commercial TV Stations</b>                | <b>1,377</b>               | <b>50 hours</b>                   | <b>68,850 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$1,790,100</b>          |
| <b>Class A Television Stations</b>           | <b>391</b>                 | <b>50 hours</b>                   | <b>19,550 hrs.</b>         | <b>\$26.00/hr.</b>          | <b>\$508,300</b>            |
| <i>Political Files:<sup>20</sup></i>         |                            |                                   |                            |                             |                             |

<sup>20</sup> These figures represent a combined annual hourly burden average among all stations in the listed categories. We note that annual burden hours at individual stations will vary widely as the amount of candidate time purchased at the station--information for which must be placed in the political file--will vary based upon how attractive a station's/system's demographics/format are to political buyers and where a particular year falls in the four-year presidential election cycle. This cycle includes: the presidential election year--presidential primaries and general elections for president, 435 seats in the House of Representatives and one third of the U.S. Senate seats; the so-called "mid-term" election year--primaries and general elections for all seats in the House of Representatives and one third of the U.S. Senate seats; and two years with

| Respondents                      | Number of Responses | Respondent's Hourly Burden | Total Annual Burden    | Hourly In-House Cost | Annual In-House Cost   |
|----------------------------------|---------------------|----------------------------|------------------------|----------------------|------------------------|
| Commercial Broadcast Stations    | 13,151              | 15 hours                   | 197,265 hrs.           | \$26/hour            | \$5,128,890            |
| Noncommercial Broadcast Stations | 4,510               | 1 hour                     | 4,510 hrs.             | \$26/hour            | \$117,260              |
| Low Power TV                     | 1,938               | 1 hour                     | 1,938 hrs.             | \$26/hour            | \$50,388               |
| Cable Systems                    | 4,413               | 5 hours                    | 22,065 hrs.            | \$18/hour            | \$397,170              |
| <b>TOTALS:</b>                   | <b>63,261</b>       |                            | <b>2,067,853 hours</b> |                      | <b>\$45,535,183.54</b> |

**Total Number of Annual Respondents: 24,013 Licensees/Permittees/Cable Operators/SDARS**

**Total Number of Annual Responses: 63,261 (responses)**

**Total Annual Burden Hours: 2,067,853 Hours**

**Total Annual "In-house" Cost: \$45,535,184 (rounded)**

**13. Provide estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).**

(a) Total annualized capital/startup costs:  $1,377 \text{ respondents}^{21} \times \$19.73^{22} = \$27,168.21$  (rounded

elections which deal almost entirely with state and local elections, with perhaps an occasional special federal election. We note that every year in the cycle would have some state and local elections.

<sup>21</sup> The number of respondents is equal to the number of commercial television stations, which are the only respondents affected by the requested revision of the currently approved information collection.

<sup>22</sup> The Commission has found that television 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 stations may choose to scan and upload files in-house at lower costs, for purposes of information collection calculations, the Commission assumes that stations will choose to out-source this work. The Commission notes that the capital costs for television stations to comply with SSA disclosure likely will be significantly less than the costs of scanning the existing public files as the number of SSAs that need to be scanned into the online public file likely will be less than the number of all other existing public files. The Commission estimates that SSAs will make up at most 5 percent of a television station's public inspection file. Accordingly, the Commission estimates that the cost to television stations to scan SSAs therefore will be only 5 percent of the \$394.56 cost to scan existing public files.



to \$27,168)

(b) Total annual costs (O&M): None

(c) **Total annualized cost requested: \$27,168 (rounded)**

**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 expenses that would not have been incurred without this collection of information.**

There are no changes to the estimated annual costs for IT operations and general attributable overhead for the online public file.

**15. Explain the reasons for any program changes or adjustments reported for this information collection.**

There are no program changes or adjustments to this collection.

**16. For collections of information whose results will be published, outline plans for tabulation and publication.**

The data will not be published.

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

OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

**18. Explain any exceptions to the Certification Statement.**

The Commission published a notice in the *Federal Register* seeking public comment on the information collections contained in this supporting statement, *see* 81 FR 78591, published November 8, 2016. In that notice the following figures were stated: 63,364 annual responses, 2,087,626 annual burden hours and \$27,363 annual cost. With the submission of the January 2018 Supporting Statement, those figures changed as follows: 63,261 annual responses, 2,067,853 annual burden hours and \$27,168 annual cost. There are no other exceptions to the Certification Statement.

## **B. Collections of Information Employing Statistical Methods**

No statistical methods are employed.