

OMB Control Number: 3060-0316

October 2019

Title: 47 CFR Sections 76.5, Definitions, 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

1. On July 10, 2019 the Commission adopted a Report and Order in MB Docket Nos. 18-202 and 17-105, FCC 19-67, *Children's Television Programming Rules; Modernization of Media Regulation Initiative*. Under the Children's Television Act of 1990 (CTA), the Commission is required to consider, in its review of television license renewals, the extent to which the licensee "has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs." The Commission initially adopted rules implementing the CTA in 1991, and revised these rules in 1996, 2004, and 2006. In the *Report and Order*, the Commission revises the children's television programming rules in light of changes to the media landscape that have occurred since the children's television programming rules were first adopted.

47 CFR Section 76.1703 requires that cable operators airing children's programming 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. Section 503(b)(6)(B). In the *Report and Order*, the Commission revises the rules to permit cable television operators to file their certifications of compliance with the commercial limits in children's programming annually rather than quarterly and to permit the filing of these certifications within 30 days after the end of the calendar year.

**The requirements listed below have not changed since last approved by OMB. The only requirements that are impacted by FCC 19-67 are contained in 47 CFR Section 76.1703. All other requirements remain unchanged.**

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: Sections 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).

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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 Section 76.1708 (principal headend) locally rather than placing this material in the online public file.

47 CFR Section 76.1700(b) requires cable system operators to make the records required to be retained by the following rules available to local franchising authorities: Sections 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: Sections 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.

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

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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 CFR Section 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.

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

47 CFR 76.1703 requires that cable operations 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 limitation period specified in 47 U.S.C. 503(b)(6)(B).

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47 CFR Section 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.

47 CFR 76.5 describes certain terms covered in the cable industry.

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, 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 applicable FCC rules and regulations.
3. Automation and electronic collection techniques are involved with this collection. Cable systems post their "electronic" public files on the Commission's website, making the public files available over the Internet.
4. No other agency imposes a similar information collection on the respondents. There is no similar data available.
5. This information collection does not impact small entities. Cable systems with fewer than 1,000 subscribers are exempt from all online public file requirements.
6. If the recordkeeping and third-party disclosure requirements in this collection were not

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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, the commercial limits in 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 84 FR 38628) on August 7, 2019. 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 there are 3,000 cable television systems that serve more than 1,000 subscribers each. The estimated average burden is 14 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 14 hrs/system = 42,000 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 14 hrs/system x \$20.00 per hour = **\$840,000**

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

**13. Annual Cost Burden:**

- (a) Total annualized one-time capital/startup costs: None.
- (b) Total annual costs (O&M): None
- (c) Total annualized one-time startup cost requested: None.

14. There are no cost to the Federal Government for this information collection.

15. There are only program changes to the annual burden hours. These changes are decreases to the annual burden hours of 12,000 hours and \$591,840 to the annual cost. This is due to the Commission reducing the frequency with which respondents must file their certifications of compliance with the commercial limits in children's programming from a quarterly to annual basis.

There are no adjustments to this collection.

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

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

18. There are no exceptions to the Certification Statement.

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

No statistical methods are employed.