

## SUPPORTING STATEMENT

### A. Justification:

1. Under Congressional directive, Commission staff reviews the Equal Employment Opportunity (EEO) practices of broadcast television stations in station employment units with five or more full-time employees, and radio stations in employment units with eleven or more full-time employees, around the midpoint of broadcasters' eight-year license terms. To facilitate this review, 47 CFR § 73.2080(f)(2) requires subject licensees to file with the Commission the Broadcast Mid-Term Report (FCC Form 397) four months prior to that date.

On February 15, 2019, the Commission released a Report and Order ("Order"), MB Docket No. 18-23, FCC 19-10; *In the Matter of Elimination of Obligation to File Broadcast Mid-Term Report (Form 397) Under Section 73.2080(f)(2)*. The Order eliminated the provision of Section 73.2080(f)(2) which requires stations to file Form 397 and replaced it with a technological approach designed to be more efficient and less burdensome to licensees. When uploading future EEO public file reports to the Commission's Online Public Inspection File (OPIF), broadcast radio and Satellite Digital Audio Radio Services (SDARS)<sup>1</sup> licensees will be prompted to answer "Yes" or "No" to indicate whether they have eleven or more full-time employees, which is the threshold number of employees triggering a mid-term review for radio and SDARS employment units. All television stations uploading an EEO public file report to the OPIF are necessarily subject to a mid-term review because the requisite staff size for both obligations is five full-time employees for television employment units. Thus, the very act of posting the report to the OPIF will be sufficient to identify television stations subject to a mid-term review.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 1. 4(i), 4(j) and 334 of the Communications Act of 1934, as amended.

2. **Agency Use of Information:** This information will be used by FCC staff and interested

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<sup>1</sup> 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. They must engage in the same recruitment, outreach, public file, website posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, and are subject to the same EEO policies. 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.

parties to monitor licensee compliance with the Commission's EEO requirements at the midpoint of the license term.

**3. Consideration Given to Information Technology:** The information will be filed electronically.

**4. Effort to Identify Duplication and Similar Information:** The agency does not impose similar information collection requirements on the respondents. There are no similar data available.

**5. Effort to Reduce Small Business Burden:** This program considers the needs of small stations by applying the filing requirement only to television stations that are part of an employment unit with five or more full-time employees and radio stations that are part of an employment unit with more than ten full-time employees. In this information collection, the burdens for all TV stations are eliminated. The burden for subject radio stations are significantly reduced.

**6. Less Frequent Data Collections:** If the information was not collected, the Commission would be unable to perform its statutorily required mid-term review of radio station EEO practices in contravention of Section 334(b) of the Communication Act of 1934, as amended.

**7. Information Collection Circumstances:** This collection of information requires that records be retained for one license term. Pursuant to Section 73.2080<sup>2</sup> this retention period is necessary to provide the FCC and the public with information to evaluate the station's EEO program compliance during its entire license term.

**8. Public Comment Period:** The Commission published a 60-day notice in the *Federal Register* (86 FR 21735) on April 23, 2021, seeking comments on the information collection requirements contained in this supporting statement. No comments were received from the public.

**9. Payment of Gift:** There are no gifts or payments given to respondents for complying with this information collection requirement.

**10. Confidentiality of Information:** There is no need for confidentiality with this collection of information.

**11. Justification for Sensitive Questions:** This collection of information does not address any private matters of a sensitive nature.

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<sup>2</sup> See OMB Control Number 3060-0349 for the recordkeeping requirement and burden associated with the requirement. The recordkeeping requirement for all EEO forms is maintained under collection 3060-0349 pursuant to Section 73.2080. The burden and requirement contained in this supporting statement, 3060-0922, deal with the filing of the actual FCC Form 397, only.

**12. Estimate of Burden and Burden House Cost:** We estimate that 13,182 station employment units (SEUs) and one SDARS licensee will respond to this information collection annually. The average burden on respondents is 0.02 hours. This estimate is based on the staff's knowledge and familiarity with the availability of the data required.

**Total Number of Annual Respondents: 13,182 Broadcast Stations + 1 SDARS licensee<sup>3</sup> = 13,183 respondents**

**Total Number of Annual Responses: 13,183 Responses**

**Total Annual Burden Hours:**

13,183 Responses x 0.02 hours/response = **264 hours (rounded)**

**Annual "In-house" Cost:** We assume that the respondent would have its human resources person respond to this "Yes" or "No" question at a salary of \$25/hour.

13,183 Responses x 0.02 hours/response x \$25/hour = \$6,592

**Total Annual "In-house" Cost: \$6,592**

**13. Annual Cost Burden:**

(a) Total annualized capital/startup costs: None

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

(c) Total annualized cost requested: None

**14. Cost to the Federal Government.** The Commission will use an EEO Specialist at the GS-12, step 5 level (\$47.35/hour) to review and process the information received at the Commission.

13,183 Filings x .08/response x \$47.35/hour = \$49,937.20

**Total Cost to the Federal Government = \$49,937.20**

**15. Changes in Burden or Cost:**

There are no program changes or adjustments to this information collection.

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<sup>3</sup> This respondent makes up the majority of its universe of respondents. Therefore, OMB approval is needed for this respondent.

**16. Plans for Publication:** The data will not be published for statistical use.

**17. Display of OMB Approval Date:** We do not seek approval to not display the expiration date for OMB approval of the information collection.

**18. Exceptions to the Certification Statement:**

The Commission published inadvertently published the 60-day notice as a regular information collection (with 5,000 burden hours or more) in the Federal Register on April 23, 2021 (86 FR 21735); however, it should have been published as a delegated collection because the burden hours are less 5,000 burden hours. We made this correction and it is reflected in the Supporting Statement to OMB.

There are no other exceptions to the Certification Statement.

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

No statistical methods are employed.