

## 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 January 25, 2022, the Commission adopted *Revisions to Political Programming and Record-Keeping Rules*, MB Docket No. 21-293, Report and Order, FCC 22-5 (rel. Jan. 25, 2022). The Commission updated the political file rules for Direct Broadcast Satellite (DBS) providers and Satellite Digital Audio Radio Service (SDARS) licensees to bring them into conformity with the Bipartisan Campaign Reform Act of 2002. The revised rules extend the Commission's political file requirements, which previously applied only to requests to purchase advertising time that "is made on behalf of a legally qualified candidate for public office," (i.e., candidate ads), to any request for the purchase of advertising time that "communicates a message relating to any political matter of national importance" (i.e., issue ads) and specify the records that must be maintained in political files for both candidate and issue ads.

This information collection also consolidates the information collections in OMB 3060-1065, OMB 3060-1212, and the portion of OMB 3060-0214 which related to SDARS licensees to eliminate duplication and inconsistencies between these information collections. OMB 3060-1065 and OMB 3060-1212 will be discontinued.

**The only requirements that are affected by FCC 22-5 are contained in Sections 25.701(d) and 25.702(b). The revisions are explained above under question 1 of this supporting statement. All other requirements (including the requirements consolidated from OMB 3060-1065, OMB 3060-1212, and OMB 3060-0214) remain unchanged since last approved by OMB.**

**The information collection requirements which are contained in this collection are as follows:**

**47 CFR 25.701(c)(1)(i)(C)** states DBS providers may establish and define their own reasonable classes of immediately preemptible time so long as the differences between such classes are based on one or more demonstrable benefits associated with each class and are not based solely upon price or identity of the advertiser. Such demonstrable benefits include, but are not limited to, varying levels of preemption protection, scheduling flexibility, or associated privileges, such as guaranteed time sensitive make goods. DBS providers may not use class distinctions to defeat the purpose of the lowest unit charge requirement. All classes must be fully disclosed and made available to candidates.

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

**47 CFR 25.701(c)(1)(i)(D)** states DBS providers may establish reasonable classes of preemptible with notice time so long as they clearly define all such classes, fully disclose them and make them available to candidates.

**47 CFR 25.701(c)(1)(i)(E)** states DBS providers may treat non preemptible and fixed position as distinct classes of time provided that they articulate clearly the differences between such classes, fully disclose them, and make them available to candidates.

**47 CFR 25.701(c)(1)(i)(I)** states DBS providers shall review their advertising records periodically throughout the election period to determine whether compliance with this section requires that candidates receive rebates or credits. Where necessary, DBS providers shall issue such rebates or credits promptly.

**47 CFR 25.701(c)(1)(i)(M)** states DBS providers must disclose and make available to candidates any make good policies provided to commercial advertisers. If a DBS provider places a make good<sup>1</sup> for any commercial advertiser or other candidate in a more valuable program or daypart, the value of such make good must be included in the calculation of the lowest unit charge for that program or daypart.

**47 CFR 25.701(c)(1)(ii)** states that at any time other than the respective periods set forth in paragraph (c)(1)(i) of this section, DBS providers may charge legally qualified candidates for public office no more than the charges made for comparable use of the facility by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the DBS provider would charge for comparable commercial advertising. All discount privileges otherwise offered by a DBS provider to commercial advertisers must be disclosed and made available upon equal terms to all candidates for public office.

**47 CFR Section 25.701(d)** requires each DBS provider to maintain and make available for public inspection a complete record of any request to purchase airtime that is made by or on behalf of a candidate for public office, or that communicates a message relating to any political matter of national importance, including a legally qualified candidate, any election to Federal office, or a national legislative issue of public importance. Such records must include information regarding:

- (1) whether the request to purchase airtime is accepted or rejected by the DBS provider;
- (2) the rate charged for the airtime;
- (3) the date and time on which the communication is aired;
- (4) the class of time that is purchased;

---

<sup>1</sup> “Make goods” are defined as the rescheduling of preempted advertising.

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

(5) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(6) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(7) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

In addition, when free time is provided for use by or on behalf of candidates, a record of the free time provided must be placed in the political file. These records must be placed in online public file hosted by the Commission as soon as possible and retained for a period of two years.

**47 CFR Section 25.701(e)(3)** requires DBS providers airing children's programming to maintain records sufficient to verify compliance with this rule 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). DBS providers must file their certifications of compliance with the commercial limits in children's programming annually within 30 days after the end of the calendar year.

**47 CFR Section 25.701(f)(6)** requires each DBS provider to maintain in the online public file hosted by the Commission a public file containing a complete and orderly record of quarterly measurements of: channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its responses to any capacity changes; a record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity; and a record of entities that have requested capacity, disposition of those requests and reasons for the disposition. All records required by this provision must be placed in the public file as soon as possible and be retained for a period of two years. Each DBS provider must also place in the online public file hosted by the Commission the records required to be placed in the public inspection file by § 25.701(e) (commercial limits in children's programs) and by § 25.601 and 47 CFR part 76, subpart E (equal employment opportunity requirements) and retain those records for the period required by those rules. In addition, each DBS provider must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the provider has a website, and provide on its website contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Furthermore, each DBS provider is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. Each DBS provider must place the address of the provider's local public file in the Commission's online file unless the provider 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 inspection file) and also provides online access via the provider's own website to back-up political file material in the event the online file becomes

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

temporarily unavailable.

**47 CFR 25.701(f)(6)(i)(D)** requires that each satellite carrier shall provide an up-to-date email address for carriage election notice submissions and an up-to-date phone number for carriage-related questions. Each satellite carrier is responsible for the continuing accuracy and completeness of the information furnished. It must respond to questions from broadcasters as soon as is reasonably possible.

**47 CFR Section 25.702(a)** states that SDARS licensees must comply with the lowest unit charge provisions in 47 CFR Section 73.1942, which require broadcasters to establish, define, and disclose classes of time for political candidates, conduct periodically a thorough review of advertising records and issue rebates or credits where appropriate, make available any make good policies, and disclose to candidates information about discount privileges offered to commercial advertisers.

**47 CFR Section 25.702(b)** requires each SDARS licensee maintain and make available for public inspection a complete record of any request to purchase airtime that is made by or on behalf of a candidate for public office, or that communicates a message relating to any political matter of national importance, including a legally qualified candidate, any election to Federal office, or a national legislative issue of public importance. Such records must include information regarding:

- (1) whether the request to purchase airtime is accepted or rejected by the SDARS licensee;
- (2) the rate charged for the airtime;
- (3) the date and time on which the communication is aired;
- (4) the class of time that is purchased;
- (5) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);
- (6) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and
- (7) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

In addition, when free time is provided for use by or on behalf of candidates, a record of the free time provided must be placed in the political file. These records must be placed in the online public file hosted by the Commission as soon as possible and retained for a period of two years.

**47 CFR Section 25.702(c)** requires each SDARS applicant or licensee to place in the online file hosted by the Commission the records required to be placed in the public inspection file by 47 CFR Sections 25.601 and 73.2080 (equal employment opportunities) and to retain those records for the period required by those

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

rules. Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's website from the home page of its own website, if the licensee has a website, and provide on its website contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each SDARS licensee is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each SDARS licensee must place the address of the provider's local public file in the Commission's online file unless the provider 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 inspection file) and also provides online access via the licensee's own website to back-up political file material in the event the online file becomes temporarily unavailable.

The Commission is requesting a three-year extension for this collection from the Office of Management and Budget (OMB).

The Commission plans to revise any appropriate privacy requirements as necessary to cover the entities and information included in the online file in this proceeding.

Statutory authority for this collection of information is contained in 47 U.S.C. Sections 154, 301, 302, 303, 307, 309, 310, 332, and 335 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 DBS or SDARS entity's performance and to ensure that the entity is operating pursuant to the FCC's rules. Similarly, the public and the FCC use the information in the public file to allow them to play an informed role in the regulation of satellite TV and satellite radio and to encourage a greater interaction between the Commission, the public, and these industries.

Maintenance of political files by DBS and SDARS entities 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.

**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. DBS providers and SDARS licensees are required to post their "electronic" public files on the Commission's website, making the

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

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.**

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 DBS and SDARS operations. With respect to the political files, if the required documentation were not retained, the public and competing legally qualified candidates running for public office would not have access to records to verify that equal rates and access were made available to all candidates.

**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 entities place information into the political file "as soon as possible."<sup>2</sup> The Commission has long interpreted "as soon as possible" to mean "immediately absent unusual circumstances."<sup>3</sup> DBS

---

<sup>2</sup> 47 U.S.C. § 315(e)(3); 47 CFR §§ 73.1943(c), 25.701(d). 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).

<sup>3</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).

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

providers and SDARS licensees must upload records to their online political file immediately absent unusual circumstances. The contents of the political file are time-sensitive.<sup>4</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>5</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. While the Commission has instituted procedures to protect confidential information, much of the public file is not confidential.

Political files must be retained for a period of 2 years. This retention period is necessary to provide the public and the FCC timely information to evaluate whether DBS providers and SDARS licensees are complying with reasonable access, equal opportunities, and lowest unit charge requirements.

**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.**

The Commission published a notice in the Federal Register seeking comments from the public on the information collection requirements contained in this collection (87 FR 6867) on February 7, 2022. The Commission did not receive any comments from the public.

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

No payment or gift was provided to the respondent in association with this collection of information.

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

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

---

<sup>4</sup> See 47 C.F.R. § 73.1943(c).

<sup>5</sup> See 47 CFR § 73.1941(c).

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

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.

The Commission plans to revise any appropriate privacy requirements as necessary to cover the entities and information included in the online file in this proceeding.

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

This information collection does not address any private matters of a sensitive nature. The Commission will redact any personal information before it becomes available for public inspection, at the request of the submitter.

The Commission prepared a system of records notice (SORN), FCC/MB-2, "Broadcast Station Public Inspection Files," that covers the PII contained in the public inspection files located on the Commission's website. The Commission plans to revise any appropriate privacy requirements as necessary to cover any additional entities and information included in the online file in this proceeding.

**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.

There are currently two DBS providers and one SDARS licensee.<sup>6</sup>

- a) **47 CFR 25.701(c) Lowest Unit Charge:** The Commission estimates 10 hours annually for each SDARS licensee to establish, define, and disclose classes of time for political candidates, conduct periodically a thorough review of advertising records and issue rebates or credits where appropriate, make available any make good policies, and disclose to candidates information about discount privileges offered to commercial advertisers.

2 DBS provider x 10 hours = **20 hours**

- b) **47 CFR § 25.701(d) Political File:** The Commission estimates 11 hours annually for DBS providers to establish and maintain political files.

2 DBS providers x 11 hours = **22 hours**

---

<sup>6</sup> There are only 3 respondents to this collection. These 3 respondents make up the universe of filers for their respondent pool; therefore, OMB approval for this collection is still needed.

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

- c) **47 CFR § 25.701(e)(3) Commercial Limits in Children’s Programming Recordkeeping:** The Commission estimates 1 hour annually for DBS providers to comply with the commercial limits in children’s programming recordkeeping requirement.

2 DBS providers x 1 hour = **2 hours**

- d) **47 CFR § 25.701(f)(6) Public File:** The Commission estimates 3.5 hours annually for DBS providers to comply with the public file requirements in this section.

2 DBS Providers x 3.5 hours = **7 hours**

- e) **47 CFR § 25.702(a) Lowest Unit Charge:** The Commission estimates 10 hours annually for each SDARS licensee to establish, define, and disclose classes of time for political candidates, conduct periodically a thorough review of advertising records and issue rebates or credits where appropriate, make available any make good policies, and disclose to candidates information about discount privileges offered to commercial advertisers.

1 SDARS licensee x 10 hours = **10 hours**

- f) **47 CFR § 25.702(b) Political File:** The Commission estimates 11 hours annually for SDARS licensees to establish and maintain political files.

1 SDARS licensee x 11 hours = **11 hours**

- g) **47 CFR § 25.702(c) Public File:** The Commission estimates 3 hours annually for SDARS licensees to comply with the public file requirements in this section.

1 SDARS licensee x 3 hours = **3 hours**

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

**Total Annual Burden Hours: 20 + 22 + 2 + 7 + 10 + 11 + 3 = 75 hours**

**Total Number of Respondents: 3**

**Total Number of Annual Responses: 11**

**Hourly In-House Cost: \$26.00**

**Annual In-House Cost: 75 hours x \$26/hr = \$1,950**

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

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

**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 costs to the Federal Government.

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

The revision to the political file rules to bring them into conformity with Section 315(e) of the Act, as added by the Bipartisan Campaign Reform Act of 2002, is a program change that increases burden hours on DBS providers and SDARS licensees by +3 hours. There is also adjustments of +8 to the annual number of responses, +18 to the burden hours and -592 resulting from the consolidation of OMB 3060-1065, OMB 3060-1212, and OMB 3060-0214 with this information 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.**

There are no exceptions to the Certification Statement.

**OMB Control Number: 3060-1207**

**April 2022**

**Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations**

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

No statistical methods are employed.