

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) requires agencies to prepare a final regulatory flexibility analysis to describe the impact of the final rule on small entities, unless the head of the agency can certify that the rule will not have a significant economic impact on a substantial number of small entities. The Act generally defines a “small entity” as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a not-for-profit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. Individuals and states are not included in the definition of a small entity. Few of the entities that meet the definition of a small entity as that term is used in the RFA would be impacted directly by this methodology.

Because this methodology is focused solely on Federal BHP payment rates to states, it does not contain provisions that would have a direct impact on hospitals, physicians, and other health care providers that are designated as small entities under the RFA. Accordingly, we have determined that the methodology, like the previous methodology and the final rule that established the BHP program, will not have a significant economic impact on a substantial number of small entities.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a methodology may have a significant economic impact on the operations of a substantial number of small rural hospitals. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. For the preceding reasons, we have determined that the methodology will not have a significant impact on a substantial number of small rural hospitals.

D. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct effects on states, preempts state law, or otherwise has federalism implications. The BHP is entirely optional for states, and if implemented in a state, provides access to a pool of funding that would not otherwise be available to the state. Accordingly, the requirements of the Executive Order do not apply to this final methodology notice.

Dated: January 6, 2016.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: February 10, 2016.

Sylvia Burwell,

Secretary, Department of Health and Human Services.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25, 73, and 76

[MB Docket No. 14-127; FCC 16-4]

Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission expand the list of entities that will be required to post their public inspection files to the FCC’s online database. In 2012, the Commission adopted online public file rules that required broadcast television stations to post public file documents to a central, FCC-hosted online database rather than maintaining paper files locally at their main studios. Our goals were to modernize the procedures television broadcasters use to inform the public about how they are serving their communities, to make information concerning broadcast service more accessible to the public, and, over time, to reduce the cost of broadcasters’ compliance. This final rule document continues our modernization effort by expanding the online file to other media entities to extend the benefits of improved public access to public inspection files and, ultimately, reduce the burden of maintaining these files.

DATES: Effective February 29, 2016, except for the amendments to 47 CFR 25.701, 25.702, 73.1943, 73.3526, 73.3527, 73.3580, 76.630, 76.1700, 76.1702, and 76.1709 which contain information collection requirements that have not been approved by OMB. The Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, Policy Division, 202-418-2154, or email at kim.matthews@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Report

and Order, FCC 16-4, adopted on January 28, 2016 and released on January 29, 2016. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY-A257, Washington, DC 20554. This document will also be available via ECFS at <http://fjallfoss.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission’s Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This *Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).¹ The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Summary of Report and Order

I. Introduction

1. In this *Report and Order*, we expand the list of entities that will be required to post their public inspection files to the FCC’s online database. In 2012, the Commission adopted online public file rules that required broadcast television stations to post public file documents to a central, FCC-hosted online database rather than maintaining paper files locally at their main studios. *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order*, 77 FR 27631, May 11, 2012 (“*Second Report and Order*”). Our goals were to modernize the procedures television broadcasters

¹ The Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, 109 Stat. 163 (1995) (codified in Chapter 35 of title 44 U.S.C.).

use to inform the public about how they are serving their communities, to make information concerning broadcast service more accessible to the public, and, over time, to reduce the cost of broadcasters' compliance. This *Report and Order* continues our modernization effort by requiring cable operators, satellite TV (also referred to as "Direct Broadcast Satellite" or "DBS") providers, broadcast radio licensees, and satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees to post their public file documents to the FCC-hosted online database as well. By including these services in our transition to an online public file, we continue our effort to harness the efficiencies made possible by digital technology to make public file information more readily available to the public, while at the same time minimizing the burden on covered entities of maintaining the file.

2. As the Commission has stated, this modernization of the public inspection file is "plain common sense." The evolution of the Internet and the spread of broadband infrastructure have transformed the way society accesses information today. It is no longer reasonable to require the public to travel to a station or headquarters' office to review the public file and make paper copies when a centralized, online file will permit review with a quick, easy, and almost costless Internet search. Moreover, an online file will permit searches by the public without requiring assistance from station or headquarters' staff, further reducing the burden of maintaining the public file.

3. As we proposed in the *Notice of Proposed Rulemaking* in this proceeding, *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, Notice of Proposed Rulemaking*, 80 FR 8031, Feb. 13, 2015 ("NPRM"), we take the same general approach to transitioning cable, DBS, broadcast radio, and SDARS to the online file that the Commission took with respect to television broadcasters, phasing-in and otherwise tailoring the requirements as appropriate for the different services. We also take similar measures to minimize the effort and costs entities must undertake to move their public files online. Specifically, we require entities to upload to the online file only those public file documents that are not already on file with the Commission or that the Commission does not currently maintain in its own database. In order to reduce the cost of transitioning to the online file, we follow the approach we took with respect to television stations

and exempt existing political file material from the online file requirement and require only that political file documents be uploaded on a going-forward basis. In order to ease the transition to the online file for broadcast radio stations, particularly those with small staffs and limited financial resources, we commence the transition to the online file with commercial stations in top 50 markets with 5 or more full-time employees. We delay for two years, until March 1, 2018, all online file requirements for all other radio stations. With respect to smaller cable systems, we exempt systems with fewer than 1,000 subscribers from all online public file requirements given that they are exempt from most public file requirements. In addition, we delay for two years, until March 1, 2018, the requirement that cable systems with between 1,000 and 5,000 subscribers commence uploading new political file material to the online file.

4. With minor exceptions, we do not adopt new or modified public inspection file requirements in this proceeding. Our focus is simply to adapt our existing public file requirements to an online format in a manner that appropriately reflects the differences among the services and that minimizes the burden for all affected entities.

II. Background

5. One of a broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. To ensure that stations meet this obligation, the Commission relies on viewers and listeners as an important source of information about the nature of a station's programming, operations, and compliance with Commission rules. To provide the public with access to information about station operations, the Commission's rules have long required television and radio broadcast stations to maintain a physical public inspection file, including a political file, at their respective stations or headquarters and to place in the file records that provide information about station operations. The purpose of the public inspection file requirement is 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."

6. The requirement that broadcasters maintain documents for public inspection dates back to 1938, when the Commission promulgated its first political file rule. In 1965, following action by Congress to allow greater public participation in the broadcast

licensing process, the Commission adopted a broader public inspection file rule to enable local inspection of broadcast applications, reports, and related documents. The Commission noted that Congress' actions "zealously guarded the rights of the general public to be informed" and that the Commission's goal was to make "practically accessible to the public information to which it is entitled."

7. Cable, DBS, and SDARS entities also have public and political file requirements modeled, in large part, on the longstanding broadcast requirements. In 1974, the Commission adopted a public inspection file requirement for cable, including a requirement to retain political file material, noting that, "[i]f the public is to play an informed role in the regulation of cable television, it must have at least basic information about a local system's operations and proposals." The Commission also noted that "[r]equiring cable systems to maintain a public file merely follows our policy for broadcast licensees and is necessary for similar reasons" and that "[t]hrough greater disclosure we hope to encourage a greater interaction between the Commission, the public, and the cable industry." With respect to DBS providers, the Commission adopted public and political inspection file requirements in 1998 in conjunction with the imposition of certain public interest obligations, including political broadcasting and children's television requirements, on those entities. DBS providers were required to "abide by political file obligations similar to those requirements placed on terrestrial broadcasters and cable systems" and were also required to maintain a public file with records relating to other DBS public interest obligations. Finally, the Commission imposed equal employment opportunity and political broadcast requirements on SDARS licensees in 1997, noting that the rationale behind imposing these requirements on broadcasters applies also to satellite radio.

8. In 2002, Congress adopted the Bipartisan Campaign Reform Act ("BCRA") which amended the political file requirements in section 315 of the Communications Act of 1934. The amendments apply to broadcast television and radio, cable, DBS, and SDARS. BCRA essentially codified the Commission's existing political file obligations by requiring that information regarding any request to purchase advertising time made on behalf of a legally qualified candidate for public office be placed in the political file. In addition, BCRA

expanded political file obligations by requiring that television, radio, cable, DBS, and SDARS entities also place in the political file information related to any advertisements that discuss a “political matter of national importance,” including the name of the person or entity purchasing the time and a list of the chief executive officers or members of the executive committee or of the board of directors of any such entity.

A. Online Public File

9. In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. The television online public file rules were the culmination of a more than decade-long effort to make information regarding how a television broadcast station serves the public interest “easier to understand and more accessible,” “promote discussion between the licensee and its community,” and “lessen the need for government involvement in ensuring that a station is meeting its public interest obligation.”

10. Based on commenter suggestions, in the *Second Report and Order* the Commission determined that each television station’s entire public file would be hosted online by the Commission. The Commission took a number of steps to minimize the burden of the online file on stations.

Broadcasters were required to upload only those items required to be in the public file but not otherwise filed with the Commission or available on the Commission’s Web site. Any document or information required to be kept in the public file and that is required to be filed with the Commission electronically in the Consolidated Data Base System (“CDBS”) is imported to the online public file and updated by the Commission. In addition, television stations were not required to upload their existing political files to the online file; rather, stations were required only to upload new political file content on a going-forward basis. Because of privacy concerns, television stations also were not required to upload letters and emails from the public to the online file; rather, they must continue to retain them in a correspondence file at the main studio.

11. In addition, to smooth the transition for both television stations and the Commission and to allow smaller broadcasters additional time to begin posting their political files online,

the Commission phased-in the new political file posting requirement. Stations affiliated with the top four national networks (ABC, NBC, CBS, and Fox) and licensed to serve communities in the top 50 Designated Market Areas (“DMAs”) were required to begin posting their political file documents online starting August 2, 2012, but other stations were exempted from posting their political file documents online until July 1, 2014. In the *Second Report and Order*, the Commission also rejected several proposals in the *FNPRM* to increase public file requirements in conjunction with implementation of the online file. Rather, the Commission determined that stations would be required to place in their online files only material that is already required to be placed in their local files.

12. The Commission stated in the *Second Report and Order* that it was deferring consideration of whether to adopt online posting requirements for radio licensees and multichannel video programming distributors (“MVPDs”) until it had gained experience with online posting of public files of television broadcasters. The Commission noted that starting the online public file process with the much smaller number of television licensees, rather than with all broadcasters and MVPDs, would “ease the initial implementation of the online public file.”

B. Petition for Rulemaking and Notice of Proposed Rulemaking

13. In July 2014, the Campaign Legal Center, Common Cause, and the Sunlight Foundation (collectively, “Petitioners” or “CLC *et al.*”) filed a joint Petition for Rulemaking requesting that the Commission initiate a rulemaking to expand to cable and satellite systems the requirement that public and political file documents be posted to the FCC’s online database. The Petitioners argued that cable and satellite services have increasingly become outlets for political advertising and that the ability of satellite television providers to sell household-specific “addressable advertising” would likely accelerate that trend. Petitioners asserted that moving the television public file online has resulted in “unquestionably substantial” public benefits, which would also occur if cable and satellite systems were required to upload their public and political files online. In addition, Petitioners argued that television broadcasters experienced few problems moving to the online file, and cable and satellite systems would also likely not

be burdened by the online filing requirement.

14. On August 7, 2014, the Media Bureau issued a Public Notice seeking comment on the Petition for Rulemaking and, in addition, on whether it should initiate a rulemaking to expand online public file obligations to broadcast radio stations. See Public Notice, *Commission Seeks Comment on Petition for Rulemaking Filed by the Campaign Legal Center, Common Cause, and the Sunlight Foundation Seeking Expansion of Online Public File Obligations to Cable and Satellite TV Operators, Bureau Also Seeks Comment on Expanding Online Public File Obligations to Radio Licensees*, 79 FR 51136, August 27, 2014 (“Public Notice”). After reviewing the comments filed in response to the Public Notice, the Commission issued the *NPRM* in this proceeding proposing to expand the online file to cable operators, DBS providers, and broadcast and satellite radio licensees.

III. Discussion

15. The rules we adopt today will modernize the outdated procedures for providing public access to cable, DBS, broadcast radio, and SDARS public files in a manner that avoids imposing unnecessary burdens on these entities. By taking advantage of the efficiencies made possible by digital technology, we will make information that cable, DBS, and broadcast and satellite radio licensees are already required to make publicly available more accessible while also reducing costs both for the government and the private sector. The Internet is an effective, low-cost means of maintaining contact with, and distributing information to, viewers and listeners. Placing the public file online will permit 24-hour access from any location, thereby improving access to information about how cable, satellite, broadcast radio, and SDARS entities are serving their communities and meeting their public interest obligations. Maintaining this information online will also either eliminate or substantially reduce the number of public visits to stations or headquarters offices to view public file material, reducing the burden on staff who would otherwise have to assist during these visits and enabling entities to improve security and minimize risks to employees. As the Commission has stated previously, the public benefits of posting public file information online, while difficult to quantify with exactitude, are unquestionably substantial.

16. Expansion of the online public file to cover more services is particularly important with respect to improving

access to political files. While broadcast television remains the dominant medium for political advertising, the quantity of such advertising on cable and satellite television continues to increase, and the advent of technological advances such as addressable advertising is likely to further this trend. Political advertising on radio is also on the rise. Adding cable, satellite TV, and broadcast and satellite radio political file material to the existing online file database will facilitate public access to disclosure records for all these services and allow the public to view and analyze political advertising expenditures more easily in each market as well as nationwide.

17. Similar to the approach we took to transitioning television stations to the online file, we take steps here to minimize the effort and cost that all entities must undertake to move their public files online. Entities will be required to upload to the online file only documents that are not already on file with the Commission or that the Commission maintains in its own database. Any document or information required both to be kept in the public file and to be filed with the Commission electronically in Commission databases such as CDBS or the Cable Operations and Licensing System (“COALS”) database will be imported to the online public file and updated by the Commission. In addition, entities being added to the online file will not be required to upload their existing political files to the online file; rather, they will be required only to upload new political file content on a going-forward basis. We note that the size of the political file likely correlates with an entity’s political advertising revenues. Accordingly, entities with little or no political advertising revenues will likely have few obligations under our rules, while entities with more documents in their political files will likely also have greater political advertising revenues.

18. Some commenters responding to the *NPRM* argue that the goal of the public inspection file requirements is to make documents available to members of the public in the station’s community of license and that requiring these documents to be placed online will encourage the filing of complaints by individuals unconnected to the local community. While we agree that the public file is first and foremost a tool for community members, it is also a tool for the larger media policy community. Easy access to public file information will also assist the Commission, Congress, and researchers as they fashion public policy recommendations

relating to media issues. For this reason, we also reject the suggestion of NAB that the Commission focus its enforcement efforts on complaints submitted by actual viewers and listeners about the public files of their local stations and decline to consider public file complaints from entities unrelated to the licensee’s local community. The Commission will consider and fairly evaluate any complaint related to our public inspection file rules. Our primary goal, however, is to improve access to public information file material.

A. Online File Capacity and Technical Issues

19. The Commission has taken a number of steps to ensure that the online file will be capable of accommodating the significant increase in network traffic as well as the volume of public file material that will result from the expansion of online filing requirements. We recognize that adding cable, DBS, broadcast radio, and SDARS to the online file will greatly increase the number of users of the file and the volume of material that must be uploaded. We also recognize that there is likely to be a heavy demand on the online file during certain filing windows and in peak political seasons, when many broadcast stations take new advertising orders and modify existing orders on a daily basis. The improvements we have made to the operation of the online file will facilitate use of the database by members of the public as well as by the entities required to maintain an online file, including existing TV station users.

20. *Technical improvements to the online file.* The Commission has made several technical improvements to the online file database. First, the Commission has finished the transition to cloud-based computing solutions for purposes of managing the online public file database. Cloud computing technology will not only ensure that we maintain sufficient capacity to store the increased number of public file materials in the database, it will also permit us to increase network capacity during times of high demand to relieve network congestion and avoid delays or backups in uploading documents to the database. As the Commission stated in the *Second Report and Order*, cloud-based computing will permit the Commission to implement an online public file that is highly available, scalable, and eliminates user wait times associated with processing documents after upload. Second, as requested by NCTA, the Commission has added to the database the ability to place a

document in multiple files using a single upload. This functionality should greatly facilitate maintenance of the online file, especially for cable operators or station group owners that place similar documents in the public file for multiple cable systems or broadcast stations. Third, when entities move a document from one folder to another in the online file, the database will now display both the date the document was first uploaded to the online file as well as the date it was moved to a different online file location. This will permit entities to move files within the online file if, for example, the file was initially placed in the wrong folder or the entity is creating new or different subfolders for purposes of improving the organization of the file, while maintaining a record of the date the document was first uploaded to the online file. Fourth, the database now will permit entities easily to delete files and empty folders when documents in the file are past their retention period or the entity wishes to delete them for another reason. Entities will be able to select one or more files and/or folders for deletion at one time, permitting them to efficiently remove documents from the online file.

21. Finally, as advocated by a number of commenters, the Commission has completed the development and implementation of an application programming interface (“API”) that can connect the online file database to third-party web hosting services and that will permit such services to efficiently load documents into the online file on behalf of client broadcast stations and other entities. We recognize that third-party web hosting services may offer valuable assistance to entities in uploading documents to the online file and otherwise maintaining the file, particularly smaller entities that may choose to outsource this effort because of cost savings and other resource constraints. The Media Bureau and the Office of the Managing Director will provide further information about the API in the near future and will conduct one or more demonstrations. The API library will also be made available for testing by covered entities and their third-party service providers prior to the effective date of the online filing requirements adopted in this proceeding. While we recognize the benefits that web hosting services may provide in assisting entities in uploading materials to the online file, we emphasize that each entity remains responsible for ensuring that its own online public file is complete. While entities are free to enter into contractual

arrangements with third parties to upload information into the online file, and to require as part of those arrangements that the third party ensure compliance with the FCC's rules, we decline to relieve entities of their responsibility to ensure that their own online public file is complete and otherwise complies with our rules. While we decline to provide a safe harbor for entities that choose to engage a third party to assist with the online file, we note that our primary goal in this proceeding is to improve access to public file information. Our enforcement efforts initially will be focused on ensuring that entities understand and comply with the online file requirements adopted herein, rather than on imposing fines for minor failures to comply with the rules, particularly during the period when entities being added to the online file are becoming familiar with online filing.

22. *Links to other Web sites.* With the exception of the channel lineup information that cable systems must retain in the online file, we will not permit entities to provide a link in the online file to an alternative online location where political file or other public file material may be maintained in lieu of uploading documents to the Commission's database. The Commission's online file database is intended to serve as a single source of public file material for entities required to use the file, and not as a collection of links to other Web sites. The online database is organized with folders and subfolders that provide a consistent display of public file material for entities in each service. Members of the public who access the online file will be able to locate documents more easily if they are organized in a similar manner for each service. We agree with CLC *et al.* that allowing entities to substitute a link to another Web site, which may follow a different organizational structure, instead of uploading documents to the online file, would likely make the file more confusing, harder to navigate, and less useful to the public. With respect to channel lineups, however, we believe it is appropriate to permit cable operators that maintain a lineup on their own Web site to provide a link to that existing online lineup in lieu of also maintaining a lineup in the Commission's online file database. Operators may elect to provide channel lineup information both in the Commission's online file as well as on their own Web sites, but will not be required to do so.

23. We will permit those entities that maintain their own electronic public and/or political files to include in the

Commission's online database a link to that private file database, in addition to uploading to the Commission's database the materials required to be retained in the online public file. Such links would provide a further source of public file information that could prove to be a useful supplement to the information available on the Commission's online database.

24. *Filing windows.* We decline at this time to extend or otherwise alter our current filing windows, as advocated by several commenters. We are confident that the online file will be capable of handling the increased number of filers and the volume of material required to be uploaded as a result of the expansion of the Commission's online database. We may reconsider expanding or otherwise altering filing windows at a later time if we believe that such efforts will either assist filers in maintaining a complete, up-to-date online file or help avoid congestion in the online database.

25. *Orderly online files.* Consistent with our requirement for television stations, we will require that cable, DBS, broadcast radio, and SDARS entities maintain orderly public files and remove expired contracts when and if replacement agreements are uploaded. While we otherwise do not require that files that are past their retention period or otherwise out-of-date be deleted, we urge all entities to actively manage their online files to ensure that they do not become so overgrown with out-of-date documents that it is difficult to access relevant materials. The Commission will take no action under the public file rules based on any public file document that is outside the mandatory retention period.

B. Political File

26. As proposed in the *NPRM*, cable operators, broadcast radio licensees, DBS operators, and SDARS entities will not be required to upload their existing political files to the online file. Instead, as we require with television licensees, these entities will be permitted to maintain locally those documents already in place in their political file at the time the new rules become effective, and upload documents to the online political file only on a going-forward basis. Existing political file material must be retained in the local political file at the station, cable system, or DBS or SDARS headquarters' office for the remainder of the two-year retention period, unless entities voluntarily elect to upload these materials to the online file. Given this limited two-year retention period, exempting the existing political file from the online database will require entities to continue to

maintain this file locally for only a relatively short period of time after the effective date of the online political file requirements established in this order. Thus, exempting the existing political file from online posting will reduce the initial burden of moving public files online. In addition, as discussed below, with respect to smaller cable systems (those with between 1,000 and 5,000 subscribers) we are delaying for two years, until March 1, 2018, the requirement that they commence uploading new political file material to the online file. We also delay all online file requirements until March 1, 2018 for radio stations with fewer resources, which we define as all NCE stations, commercial stations in markets below the top 50 or outside all radio markets, and commercial stations in the top 50 markets with fewer than five full-time employees. We believe that providing these entities with additional time to complete their transition to the online file will ease implementation for these smaller entities and also give the Commission time to address any concerns that may arise as larger entities commence using the online file.

27. Consistent with our current political file rules, and as proposed in the *NPRM*, we will require that new political file materials be uploaded to the online file "immediately absent unusual circumstances." The contents of the political file are time-sensitive. Therefore, it is essential that there be no delay in posting political file materials to the online file. In addition, consistent with our approach to the television online file, we will create and propagate subfolders for federal and state candidate ad purchases, as appropriate, as well as issue ads that relate to a political matter of national importance. We will also provide entities with the ability to create additional subfolders and subcategories in compliance with their own practices.

C. Voluntary Use of the Online Public File

28. As we proposed in the *NPRM*, we will permit entities that are temporarily exempt from part or all online public file requirements to upload material to the online public file voluntarily before the delayed effective date of their online file requirement. For example, an NCE broadcast radio station that is not required to commence using the online file until March 1, 2018, as discussed below, could elect voluntarily to commence using the online file prior to this date. We will also permit entities to elect voluntarily to upload to the online file existing political file material that would otherwise be required to be

retained in the entity's local public file until the end of the two-year retention period. To avoid any confusion regarding the location and completeness of the public and political file, any entity that voluntarily elects to commence using the online file early must ensure that the online file contains all new public file material on a going-forward basis, including all new political file material. That is, all new public and political file material must be uploaded to the online file on a going-forward basis commencing on the date the entity elects to transition to the online file. The online file database will require users to indicate that they have transitioned to the online file.

D. Back-Up Files

29. As proposed in the *NPRM*, cable, DBS, broadcast radio, and SDARS entities will not be required to maintain back-up copies of all public file materials. Instead, as we do for the existing television online file, an entity may request that the Commission create a mirror copy of its public file to ensure that, if the data in the online file are compromised, the file can be reconstituted using the back-up copy. If the Commission's online file becomes temporarily inaccessible for the uploading of new documents, we will require entities to maintain those documents and upload them to the file once it is available again for upload.

30. As proposed in the *NPRM* and consistent with the approach we take with respect to television broadcasters, however, we will require cable, DBS, broadcast radio, and SDARS entities to make back-up files for the political file available to the public to ensure that they can comply with their statutory obligation to make that information available to candidates, the public, and others immediately. Entities will be required to make these backups available only if and during such rare times as the Commission's online public file is unavailable. To minimize any burden caused by this requirement, entities may choose to meet the political file back-up requirement by periodically downloading a mirror copy of the public file, including the political file, housed on the FCC's database. To ensure that the political file is complete, entities that choose this option must retain any political file records that have not yet been uploaded to the FCC's online file database or that were uploaded after their last download of a mirror copy of the online public file.

31. These back-up files may be retained either in paper or electronic form at the entity's local public file location. Alternatively, entities may

elect to make these back-up political files accessible to the public online via the entity's own Web site. Cable operators or other entities with their own electronic political files may elect to use these files as a back-up in the event the Commission's online database is unavailable.

32. In the event the Commission's online file becomes temporarily inaccessible, we will require DBS and SDARS entities to make their back-up political files available to the public through the entity's choice of either an online method, via the entity's own Web site, or by answering questions and accommodating requests for copies of political file materials made by telephone. Copies requested by telephone may be sent by fax, email, or mail, at the caller's request. If a requester prefers access by mail, the DBS or SDARS entity may require the individual requesting documents to pay for photocopying. We believe it is necessary to require DBS and SDARS entities to provide alternative means to access back-up political file documents, either online or by telephone, as these entities provide service nationwide and are required to maintain only one public and political file for the entire U.S. at their headquarters office, making in-person access very difficult. This requirement for online or telephone access will apply only to DBS and SDARS back-up political file materials during times when the Commission's online database is unavailable. Accordingly, we do not believe this requirement will be unduly burdensome.

E. Format

33. As proposed in the *NPRM*, cable, DBS, and broadcast and satellite radio entities will be required to upload any electronic documents to the online file in their existing format to the extent feasible. The Commission will display the documents in both the uploaded format and in a pdf version. If a required document already exists in a searchable format, documents must be uploaded in that format to the extent technically feasible.

34. We decline at this time to implement a standard format for the online file, including for political advertising data, as requested by *CLC et al.* As discussed above, the Commission has made a number of upgrades to its online file database to accommodate additional users and make the file easier to use. We will continue to prioritize these and other efforts to ensure that the database is reliable and user-friendly before considering further improvements.

F. Announcements and Links

35. We will require cable operators, DBS providers, and broadcast and satellite radio licensees that have Web sites to place a link to the online public file on their home pages, consistent with our proposal in the *NPRM* and our requirement for television stations. This link must connect to the first page of the entity's online public file. We will also require entities that have Web sites to include on their home page contact information for a representative who can assist any person with disabilities with issues related to the content of the public file.

36. As proposed in the *NPRM*, we will not require cable, DBS, broadcast radio, or SDARS entities to make on-air announcements regarding the change in location of their public file. Consistent with the approach taken with respect to television stations in the *Second Report and Order*, we will require broadcast radio stations, however, to revise their on-air pre- and post-filing renewal announcements to reflect the availability of a station's renewal application on the Commission's Web site.

G. EEO Materials

37. As we proposed in the *NPRM*, we will continue to require that cable, DBS, and broadcast and satellite radio entities make their EEO materials available on their Web sites, if they have one. Similar to our requirements for television stations, entities may fulfill this Web site posting requirement by providing, on their own Web site, a link to the EEO materials on their online public file page on the Commission's Web site. The link to EEO materials must be a direct link to such materials on the FCC's Web site, and not simply a link to the first page of the entity's online public file. As discussed above, all entities that have Web sites must also place a link to the first page of their online public file on the home page of their Web site.

H. Local Public Inspection File

38. Entities that have fully transitioned to the online public file—that is, entities that have uploaded all public file material to the FCC's online file database including all political file material required to be retained in the public file—and that also provide online access to back-up political file material via the entity's own Web site when the FCC's online database is temporarily unavailable, will not be required to maintain a local public file. This option is not available to commercial broadcast licensees who must continue to retain a

correspondence file that cannot be made available online for privacy reasons.

39. NTCA, Verizon, and DIRECTV request that we clarify that entities do not need to maintain a local public inspection file once they have fully transitioned to the online file. We note that, unlike commercial broadcast stations who must retain a correspondence file at the station, cable, DBS, and SDARS entities will have fully transitioned to the online file once the retention period for existing political files expires. As discussed above, however, all entities must maintain a back-up file for the political file in the event the online file becomes unavailable and make this back-up file available to the public. As discussed above, we will permit entities to retain back-up political file materials either in paper or electronic form at their local file location or make such materials available to the public online via the entity's own Web site. Entities with their own Web sites must indicate clearly on that Web site either the Web site or physical address of their back-up political files. Entities that have fully transitioned to the online file and that make their back-up political file materials available online will not be required to maintain a local public file.

40. We will require all cable and DBS operators and broadcast and satellite radio licensees to provide information in the online public file about the individual who may be contacted for questions about the file. This information must be provided when the operator or licensee first establishes its online public file and should be updated if and when staffing or location changes occur. In addition, entities that have not fully transitioned to the FCC's online public file—that is, entities that do not post online all public and political file material required to be maintained in the public inspection file—and that do not also provide online access via their own Web sites to back-up political file materials must also provide information in the FCC's online public file about the location of the entity's local public file. This information is necessary to inform the public of the location of the existing political file (until its retention period expires) and/or the location where the public can access back-up political file materials in the event the Commission's database is unavailable. All commercial broadcast licensees must include information in the FCC's online file about the location of their local public file so the public is aware of the location of the correspondence file retained by these broadcasters.

I. Compliance Dates

41. *New Public File Materials.* In order to facilitate a smooth transition to the online public file, we will provide entities a period of time after the effective date of the online file requirements adopted in this order to begin uploading files. Cable systems with 1,000 or more subscribers, DBS providers, SDARS licensees, and commercial radio broadcast stations in the top 50 markets with five or more full-time employees will be required to begin using the online public file 30 days after the Commission announces in the **Federal Register** that OMB has completed its review of this Order under the Paperwork Reduction Act ("PRA") and approved the collection. Commencing on this effective date, these entities must begin uploading new public file materials to the Commission's online public file database and, with the exception of cable systems with between 1,000 and 5,000 subscribers, these entities must also upload new political file material to the Commission's online file. Entities will not be permitted to commence uploading material to the online file prior to this effective date. We decline NAB's request that we give radio stations 60 days from the effective date to commence uploading new public file material. Only commercial radio broadcast stations in the top 50 radio markets with 5 or more full-time employees are required to commence uploading documents to the online file beginning 30 days after the effective date of this Order. We believe these larger radio stations have the necessary resources to be able to commence using the online file within this time frame without imposing an undue burden.

42. In recognition of their more limited resources, we provide more time for smaller entities to transition to the online file. Thus, as discussed further below, commercial broadcast radio stations in the top 50 markets with fewer than five full-time employees, all commercial broadcast radio stations in markets below the top 50 and outside all radio markets, and all NCE broadcast radio stations will not be required to begin uploading new public and political file material to the online file until March 1, 2018. In addition, cable systems with 1,000 or more but fewer than 5,000 subscribers will not be required to commence uploading new political file material to the online file until March 1, 2018. Cable systems with fewer than 1,000 subscribers are exempt from all online filing requirements.

43. *Existing Public File Materials.* We will give cable systems with 1,000 or

more subscribers, DBS providers, SDARS licensees, and commercial radio broadcast stations in the top 50 markets with five or more full-time employees six months from the effective date of the rules (*i.e.*, six months after the Commission publishes a notice in the **Federal Register** announcing OMB approval under the PRA as discussed above) to complete the process of uploading to the online file their existing public file materials, with the exception of existing political files. This approach is similar to that taken by the Commission in the *Second Report and Order* to transition television stations to the online public file. Entities will be permitted to begin uploading existing public file materials immediately on the effective date, at the same time that they must begin posting new materials to the online public file on a going-forward basis. These entities must complete the process of uploading the existing public file—but not the existing political file, which is not required to be transitioned to the online file—within six months of the effective date. We believe that giving these entities six months to upload existing files will provide adequate time and flexibility to complete this process.

J. Waiver

44. While we do not believe online posting of the public file, including prospective posting of the political file, will impose an unreasonable burden on the vast majority of entities subject to the rules adopted in this Order, we recognize that there may be a few entities for which the transition to an online public inspection file may prove especially difficult. In this regard, we note that some small radio stations in remote locations may not have access to reliable Internet service or may be without Internet access altogether. In addition, there may be rare instances in which a small radio station or cable operator faces undue economic or other resource limitations that make the transition to the online public file especially challenging. If an entity believes that the transition to the online file will impose an undue hardship, it may seek a waiver of the requirements adopted in this order. An entity seeking a waiver should provide the Commission with information documenting the economic hardship the station would incur in complying with online file requirements, its technical inability to do so, or such other reasons as would warrant waiver under our general waiver standards.²

² As discussed below, we are phasing-in the online file requirements for radio beginning with

K. Requirements and Issues Unique to Each Service

45. Because each service for which we are implementing online public file requirements is unique, we address each service separately below. We address any service-specific issues raised in the *NPRM* and by commenters, and also address the manner in which we will phase-in online file requirements for each service.

1. Cable Public Inspection File

a. Current Rules

46. The FCC's rules regarding records to be maintained by cable systems distinguish between records that must be retained for inspection by the public and those that must be made available to Commission representatives or local franchisors only. The rules also impose different recordkeeping requirements based on the number of subscribers to the cable system. Operators of cable systems with fewer than 1,000 subscribers are exempt from many public inspection file requirements, including the political file, sponsorship identification, EEO records, and records regarding children's commercial programming. Operators of systems with between 1,000 and 5,000 subscribers must provide certain information "upon request" but must also "maintain for public inspection" a political file, while operators of systems having 5,000 or more subscribers must "maintain for public inspection" a political file and records regarding, among other things, sponsorship identification, EEO, and advertisements in children's programming. The rules state that the public inspection file must be 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)."

47. Cable system political file requirements are similar to those for broadcast stations. The political file

commercial stations in the top 50 Nielsen Audio markets with 5 or more full-time employees. See, *infra*, para. 83. We delay online filing for all other radio stations for approximately two years, until March 1, 2018. *Id.* In the event a commercial radio station with between 5 and 10 full-time employees, otherwise required to transition to online filing in the first group, finds the transition especially difficult, the Commission will give careful consideration to requests by these stations for additional time to commence online filing. The Commission also will be favorably inclined to grant requests for additional time to commence online filing from very small radio stations with fewer than five full-time employees, as these stations may have limited resources and, therefore, find the transition to the online file particularly challenging.

must contain a "complete and orderly record . . . of all requests for cablecast time made by or on behalf of a candidate for public office" including the disposition of such requests. The file must also show the "schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased." With respect to certain issue advertisements, the file must disclose the name of the purchasing organization and a list of the board of directors. These records must be filed "immediately absent unusual circumstances," and must be retained for at least two years.

b. Online Public File Requirements

(i) Content Required To Be Maintained in the Online File

48. As discussed above, consistent with the rules we adopted for television broadcasters and that we adopt for other entities, we will require that cable operators upload to the online public file all documents and information that are required to be in the public file but which are not also filed in COALS or maintained by the Commission on its own Web site. The Commission will import these latter documents or information into the online public file itself. As noted in the *NPRM*, the only document that cable operators file with the Commission that must also be retained in their public inspection file is the EEO program annual report, which the Commission will upload to the online file. We will require cable systems with 1,000 or more subscribers to upload to the online file other material currently required to be maintained for public inspection.

49. While cable systems with 1,000 or more subscribers but fewer than 5,000 subscribers are currently required to provide certain materials to the public only "upon request," as proposed in the *NPRM* we will also require these systems to place these materials in the online public file to facilitate public access to these materials, except as clarified in paragraph (ii) below. The documents these systems are currently required to make available "upon request" are those required by 47 CFR 76.1701 (sponsorship identification), 76.1702 (EEO records available for public inspection), 76.1703 (commercial records for children's programming), 76.1704 (proof-of-performance test data), and 76.1706 (signal leakage logs and repair records). We disagree with NCTA that moving from an "upon request" regime to an affirmative requirement to upload documents to the online file for these systems represents a burdensome change in regulation.

While our current rules do not require that these records be maintained at a particular local site, cable operators must make this information "promptly available once a request is received." Our decision to require instead that these records be maintained in the online file does not materially alter the burden of maintaining these records and making them available upon request and is consistent with our transition to an online public file regime.

50. *Exemption from all online file requirements for small cable systems.* As we proposed in the *NPRM*, we will exempt cable systems with fewer than 1,000 subscribers from all online public file requirements. As noted above, these systems have far fewer public file requirements than larger systems and are not required to maintain a political file. NCTA and ACA support this exemption from online public file requirements. We decline, however, to adopt ACA's proposal that we extend to cable systems with fewer than 2,500 subscribers the same public file exemptions currently applicable to cable systems with fewer than 1,000 subscribers and, in addition, exempt systems with fewer than 2,500 subscribers from all online public file requirements. It is beyond the scope of this proceeding to consider expanding the number of cable systems that are exempt from current public inspection file requirements. Our goal is simply to adapt our existing public file requirements to an online format, while clarifying and streamlining certain requirements as necessary. We also decline to adopt ACA's proposal that we exempt systems with fewer than 15,000 subscribers and not affiliated with a multichannel video programming distributor ("MVPD") serving more than ten percent of all MVPD subscribers from the requirement to maintain their public inspection files in the online database and instead permit these systems to make information in these files available upon request. These entities must retain records in order to be able to make them available upon request, and we believe any additional burden resulting from a requirement that they instead be posted online is minimal and is outweighed by the benefit of making information more readily accessible without requiring members of the public to make a specific request for records from each system. We also believe ACA's proposal would confuse the public about the location of public file materials.

51. We believe that the cumulative impact of the online file requirements will not prove overly burdensome to cable systems, particularly in light of

the clarification we make below that proof-of-performance and signal leakage information is exempt from the public file. As discussed above, any system for which the transition to online filing would impose an undue hardship may request a waiver.

52. *Political file.* Consistent with the approach we adopted for television broadcasters, cable operators will not be required to upload their existing political files to the online file; rather, they will be permitted to maintain existing material in their physical political file and upload documents to the online political file only on a going-forward basis. This approach will minimize the burden of transitioning to the online file for cable operators while providing convenient access to the information most likely to be of interest to the public.

53. *Delay in political file requirements for small cable systems.* To smooth the transition for cable operators and the Commission and to allow smaller cable systems additional time to begin posting their political files online, as proposed in the *NPRM* we will phase in the political file posting requirements for small cable systems. For the next two years, we will require only systems with 5,000 or more subscribers to post their new political file documents online. We temporarily exempt other cable systems from posting their political documents to their online public file until March 1, 2018. NCTA supports delaying for two years the requirement to post new political file material online for smaller cable systems, and this delay is also consistent with the additional time we gave smaller television stations to begin posting political files online in the *Second Report and Order*.

54. We believe that it is appropriate to commence online political file requirements with larger cable systems with more subscribers as these systems are more likely to have the resources needed to address any implementation issues, should they arise. Allowing other systems additional time to begin uploading the political file will ease implementation for these smaller systems and also give the Commission time to address any concerns that may arise as larger cable systems transition to the online file. Applying this delay in online political file requirements to cable systems with fewer than 5,000 subscribers establishes a threshold that is clear and easy to implement. As discussed above, this 5,000 subscriber threshold is currently used in the public file rules to provide regulatory relief from certain recordkeeping requirements. Cable systems are therefore familiar with the use of this

threshold in the context of public file requirements, which should help avoid confusion regarding which systems are eligible for the temporary exemption.

55. As an alternative to the 5,000 subscriber cutoff, we sought comment in the *NPRM* on whether we should instead define “small cable system” for purposes of the temporary exemption from the online political file requirement as a system with fewer than 15,000 subscribers that is not affiliated with a larger operator serving more than 10 percent of all MVPD subscribers. While NCTA supports this latter definition, we believe the 5,000 subscriber cutoff is both less complicated, as it does not require calculation of the total number of MVPD subscribers as well as the percentage served by any multi-system operator, and easier to administer and implement as systems are already familiar with this cutoff in connection with public inspection file requirements. We believe that uploading new political file material to the online file will not prove significantly more burdensome than maintaining paper files, and will prove less burdensome over time as operators become more familiar with the online file.

56. *Geographic information.* We will require cable operators, when first establishing their online public file, to provide a list of the five-digit ZIP codes served by the cable system. Cable operators with more than one physical system identifier (“PSID”) will be required to identify the ZIP code(s) served by each PSID. As discussed in the *NPRM*, the Commission currently lacks precise information about the geographic areas served by cable systems, and we believe that providing information about ZIP codes served will make the information in the online file, and especially the political file, more useful to subscribers, advertisers, candidates, and others. While we proposed in the *NPRM* to require operators to provide information regarding both the ZIP codes and Designated Market Areas (“DMAs”) served by each system, we will require only ZIP code information at this time. ZIP codes correlate to geographic areas that are easily identified by the Commission and the general public. In addition, zip code areas are smaller than DMAs, providing more granular data to users of the online file. Information about ZIP codes served should also be relatively easy for operators to obtain from their billing records. We note that operators will be required to identify the ZIP codes served by each cable system only when they first establish their public files on the Commission’s

database, and to update this information only to reflect changes. Therefore, we do not believe this requirement will be unduly burdensome.

57. We reject the suggestion of NCTA and ACA that, instead of requiring cable operators to upload information about the geographic area served by the system, the FCC instead import that information from FCC Form 322 (Cable Community Registration). The communities identified on Form 322 often do not correspond to locations with defined political and/or geographic boundaries. In addition, while Form 322 does contain information about counties served by each system, this information is not as granular as ZIP code data, which is not available on Form 322. We also decline Verizon’s suggestion that we refer to franchise areas in the online file, as we believe this information is less likely to be recognizable by the public than ZIP codes.

58. We sought comment in the *NPRM* on whether, in lieu of ZIP code or DMA data, we should instead require cable operators to provide information about the census block(s) or census tract(s) served by each system. We do not require cable operators to provide this information.

59. *Cable employment units.* We will also require cable operators, when first establishing the online public file for each cable system, to identify the employment unit number or numbers associated with each system. This information is required to permit the Commission to associate EEO reports filed with the Commission, which are identified by employment unit number, with the system or systems covered by each report and employment unit. As cable operators will be required to provide this information only when they first establish the online public file and when any updates are required, we do not believe this requirement will be unduly burdensome.

60. *Channel lineups.* We will require cable operators either to upload information regarding their current channel lineup to the online file, and keep this information current, or provide a link in their online file to the channel lineup maintained by the operator. While we recognize that cable systems may currently provide channel lineup information to subscribers in various ways in addition to putting it in the public file, we decline to eliminate the requirement that such information also be made available in the online public file, as advocated by NCTA and ACA. We agree with NCTA and ACA, however, that we should allow operators the option of including a link in the online public file to their own

online channel lineups in lieu of uploading channel lineups to the online file. This option will ease the burden on cable operators who maintain their channel lineups on their own Web sites and will help ensure that the channel lineup information accessible through the online public file is up to date. We emphasize that cable systems may take advantage of the option of including a link to the cable system's channel lineup in the online file in lieu of uploading the lineup only if the link is made available to all members of the public.

61. *Headend location information.* Our rules currently require the operator of every cable television system to maintain in the public inspection file the "designation and location of its principal headend." As we proposed in the *NPRM*, we will not require cable operators to include principal headend location information in the online public file. Instead, operators will have the option to instead continue to retain this information in their local public file. In comments filed in response to the *Public Notice*, NCTA asked that we consider whether we should exclude headend location information from the online public file as it is of little interest to the general public and revealing this information in a centralized database available to Internet users "raises potentially serious security risks." While we reserve judgment as to whether there are valid security concerns associated with posting the location of the principal headend online, we agree that the general public is unlikely to be interested in this information and, therefore, will permit operators who prefer to retain this information locally rather than posting it online to do so. We remind operators who choose not to post principal headend location information to the Commission's online public file that the local file where this information is retained must be made available for public inspection at any time during regular business hours.

62. *Commercial limits in children's programming.* We decline to adopt NCTA's request that we revise our public file rules to permit cable operators to provide documentation regarding compliance with the commercial limits in children's programs only in the event of a complaint. NCTA's proposal is beyond the scope of this proceeding, which is intended to adapt our current public file rules to an online format rather than changing underlying requirements. While we recognize that our current rules require cable operators operating multiple systems carrying the same

children's programs to retain in their files similar commercial limits information for these systems, we believe the transition to the online public file will significantly reduce the burden of complying with this aspect of the current children's television rules. As discussed above, the Commission has upgraded the online file database to permit entities to populate multiple files using a single upload. This feature will permit cable operators to use a single upload to post required commercial limits documentation to the online file for multiple cable systems, making compliance with the commercial limits rules easier in the online database than in the current local public file regime. In addition, as discussed above, entities are free to negotiate with third-party vendors for assistance in uploading documents to their online public inspection file using the API interface.

63. *FCC Form 325.* We invited comment in the *NPRM* on whether the Commission should make FCC Form 325 (Annual Cable Operator Report) available in the online public file. That form is filed annually by cable systems with 20,000 or more subscribers. We decline to include FCC Form 325 in the online file at this time as these forms are not currently required to be included in the public inspection file.

64. *State and local public file requirements.* We decline to adopt Verizon's request that we preempt public file requirements imposed pursuant to agreements between a cable operator and state and local franchising authorities. While such agreements may require cable operators to maintain a local file with content that may duplicate or differ from that required by the FCC's public file requirements, we do not believe it is appropriate in this proceeding to preempt such local or state requirements. We will, however, enable entities to add a separate folder to their FCC online file for content that is required to be retained by the operator for public inspection pursuant to a franchising agreement. Cable operators may choose to take advantage of this option in order to maintain in a single location all materials required to be made available to the public, pursuant to either the FCC's rules or franchising requirements. Any material uploaded to the online file solely for purposes of compliance with state or local franchise requirements must be placed in a separate folder that is clearly labeled by the operator to distinguish it from FCC public and political file materials. Entities may not place materials solely intended to comply with franchise requirements in the same folder(s) used for FCC online public and

political file materials, as this could be confusing to users of the online file. However, by creating this option, we are not changing any obligations that local franchising authorities may have imposed with respect to local inspection files. If the franchising authority has a requirement to maintain a local file that would not be satisfied by posting those documents to the FCC's online file, the cable operator must continue to maintain such a local file in compliance with the franchising agreement unless the franchising authority allows it to move those files online.

(ii) Clarification and Reorganization of the Cable Public Inspection File Rules

65. *Proof-of-performance and signal leakage information.* We clarify that proof-of-performance and signal leakage information does not need to be retained in the public inspection file or uploaded to the online file. This material must be maintained and made available to the Commission and franchisor, however, upon request. We noted in the *NPRM* that the current recordkeeping rules regarding this information are unclear. We agree with NCTA and ACA that proof-of-performance and signal leakage information is highly technical and unlikely to be of interest to the general public and does not need to be retained in the public inspection file or be made available online. We will, however, continue to require that systems retain this information and make it available to the Commission and franchisor upon request.

66. *Reorganization of 47 CFR 76.1700.* As proposed in the *NPRM*, we are reorganizing section 76.1700 of the rules both to reflect the online public file requirements adopted in this Order and to clarify cable public inspection file requirements. The cable recordkeeping requirements are currently spread over several rule sections in Part 76, Subpart U (Documents to be Maintained for Inspection), with some requirements contained in a separate rule subpart. While section 76.1700 currently cross references many of these recordkeeping requirements, it does not cite them all. The revised rule section 76.1700 in Appendix B cross references all cable public recordkeeping requirements and more clearly addresses which records must be maintained in the public inspection file, and therefore uploaded to the Commission's online file, versus those that must be made available only to the Commission or franchising authority.

2. DBS Public Inspection File

a. Current Rules

67. DBS providers are required to maintain a public inspection file containing four categories of information: Information regarding compliance with the carriage obligation for noncommercial programming (the “noncommercial set-aside”); Information regarding compliance with the commercial limits in children’s programming; certain EEO materials; and a political file. With respect to the noncommercial set-aside, the rules require that DBS providers “keep and permit public inspection of a complete and orderly record of,” among other things, measurements of channel capacity, a record of entities to whom noncommercial capacity is being provided, the rates paid by the entity to whom capacity is provided, and a record of entities requesting capacity and the disposition of those requests. With respect to compliance with the children’s programming commercial limits, DBS providers airing children’s programming must maintain records sufficient to verify compliance with the rules and “make such records available to the public.” With respect to EEO materials, DBS operators are required to maintain in their public file EEO reports and certain EEO program information.

68. DBS providers are also required to “keep and permit public inspection of a complete and orderly political file” and to “prominently disclose the physical location of the file and the telephonic and electronic means to access” it. The file must include, among other things, records of “all requests for DBS origination time” and the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased for each request. These records must be placed in the file “as soon as possible” and must be retained for at least two years. Unlike broadcasters and cable systems, DBS providers must “make available via fax, email, or by mail upon telephone request, photocopies of documents in their political files and shall assist callers by answering questions about the contents of their political files.”

b. Online Public File Requirements

69. Similar to our existing online public file requirements for television stations and the requirements we adopt for cable, broadcast radio, and satellite radio entities, we will require DBS providers to upload to the online file only material that is not already on file at the Commission. Similar to cable operators, the only document that DBS providers file with the Commission that

must also be retained in their public inspection files is the EEO program annual report, which the Commission will upload to the online file. DBS operators will be required to post to the online file channel capacity measurements and other records related to the use of and requests for noncommercial capacity, records related to compliance with children’s commercial limits, certain EEO materials, and new political file material.

70. We do not believe that requiring DBS providers to upload this material to the online file will be onerous. As compared to television and radio broadcasters and cable operators, DBS providers have the fewest number of public file requirements. We believe that the transition to an online file is particularly important for DBS because of that service’s nationwide reach. Each DBS provider is required to maintain only one public and political file for the entire U.S. at its headquarters, making in-person access very difficult. Moving this material to the online database will facilitate access to the public file by viewers nationwide.

71. Consistent with our approach for television stations and the rules we adopt for cable, broadcast radio, and satellite radio entities, we will not require DBS providers to upload their existing political files to the FCC’s online file but will permit them to maintain existing material in their physical political file and upload documents to the online political file only on a going-forward basis. DBS providers must begin uploading new public and political file material to the online public file 30 days after the Commission announces in the **Federal Register** that OMB has completed its review of this Order under the Paperwork Reduction Act (“PRA”) and approved the collection. These entities will have six months from the effective date of the rules (*i.e.*, six months after the Commission publishes a notice in the **Federal Register** announcing OMB approval under the PRA) to complete the process of uploading existing public file materials to the online file, with the exception of existing political files which entities are permitted, but not required, to upload to the Commission’s online public file.

72. We will eliminate the requirement that DBS providers honor requests by telephone for copies of political file materials if those materials are made available online. Thus, with respect to existing political file materials not required to be posted to the FCC’s online database, DBS providers must continue to answer telephone inquiries

regarding those materials, as well as requests for copies, unless they elect to post those existing political files to the FCC’s online database. In addition, as discussed above, if the FCC’s online public file database is temporarily unavailable, we will require DBS providers to make their back-up political files available to the public by, at their own choice, either an online method, via the entity’s own Web site, or by answering questions and accommodating requests for copies of political file materials made by telephone. Copies requested by telephone may be sent by fax, email, or mail, at the caller’s request. If a requester prefers access by mail, the DBS or SDARS entity may require the individual requesting documents to pay for photocopying.

73. We sought comment in the *NPRM* on how DBS political files should be organized, particularly with respect to advertisements shown on a local or hyper-local basis. We agree with DIRECTV that DBS providers should have the flexibility to organize their political files in any manner that reasonably allows users to view their contents. DBS providers offer advertisers the option to purchase advertising both nationwide and locally, and we will permit these entities to create folders for the political file that reflect the manner in which ads were purchased and shown.

74. DIRECTV notes that the political file rules require DBS providers to include in the political file a significant amount of information about certain political ad buyers and, in some cases, the nature of the issue being advertised. According to DIRECTV, some political advertising buyers have refused to provide this information. DIRECTV requests that the Commission clarify that political advertisers must present DBS providers with sufficient information to comply with the political file requirements. We remind DBS providers, as well as other entities subject to our political broadcasting rules, that they are responsible for ensuring that their political files are complete and accurate as required by the Communications Act and the Commission’s rules.

3. Broadcast Radio Public Inspection File

a. Current Rules

75. The public inspection file rules for radio broadcasters are generally similar to those for television broadcasters. Every permittee or licensee of an AM or FM station in the commercial or noncommercial educational broadcast

service must maintain a public inspection file containing, among other things, FCC authorizations, applications, contour maps, ownership reports, EEO materials, issues/programs lists, and time brokerage (also known as "local marketing") and joint sales agreements. The file must be maintained at the station's main studio.

76. Radio stations are required to maintain a political file as part of their public inspection file. The political file must contain a "complete and orderly record" of requests for broadcast time made by or on behalf of a candidate for public office. The file must also show the "schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased." With respect to issue advertisements, stations must disclose the name of the purchasing organization and a list of the board of directors. These records must be filed "as soon as possible, meaning immediately, absent unusual circumstances," and must be retained for at least two years.

b. Online Public File Requirements

(i) Content Required To Be Maintained in the Online File

77. We will require radio broadcast licensees to upload to the online public file all documents and information that are required to be in the public file but that are not also filed in CDBS (or LMS) or otherwise maintained by the Commission on its own Web site. Thus, radio stations must upload citizen agreements, certain EEO materials, issues/programs lists, local public notice announcements, time brokerage agreements, joint sales agreements, materials related to FCC investigations or complaints (other than investigative information requests from the Commission), and any new political file material. The Commission will import to the online file documents and information required to be in the public file that are electronically filed in CDBS (or LMS), including authorizations, applications and related materials, ownership reports and related materials, EEO Reports, The Public and Broadcasting manual, and Letters of Inquiry and other investigative requests from the Commission, unless otherwise directed by the inquiry itself.

78. *FCC Form 302-AM*. FCC Form 302-AM (Application for AM Broadcast Station License) is available for paper filing only, unlike the application for FM station licenses (FCC Form 302-FM) which must be filed electronically. We will permit AM stations that must retain Form 302-AM in their public inspection file to choose either to retain the form

locally for public inspection or upload the form themselves to the Commission's online database. NAB urges the Commission to upgrade its database to reduce the unequal burden on AM stations that are unable to file forms electronically. We are working on upgrading our broadcast licensing database, including FCC Form 302-AM, but we will not make changes to the filing requirements in this item. Our focus is on moving the public inspection file to the Commission's online database; other broadcast licensing database improvements are beyond the scope of this proceeding.

79. *Political file*. As proposed in the *NPRM*, and consistent with the approach we adopted for television broadcasters and that we adopt here for other entities, broadcast radio licensees will not be required to upload their existing political files to the online file, but instead will be permitted to maintain existing material in their local political file and upload documents to the online political file only on a going-forward basis. This approach will minimize the burden of transitioning to the online file.

80. *Delay in implementation for stations with fewer resources*. In light of the unique economic circumstances faced by radio broadcasters, we believe it is appropriate to implement the online public file by imposing requirements, at first, only on stations with more resources. Some radio commenters expressed opposition to the Commission's proposal to include radio broadcasters in the online file. Some argue that the radio industry already faces significant economic challenges as the result of competition from other services that would be exacerbated by the imposition of further regulatory requirements. Others question the need to expand the online file to radio, noting the limited number of requests radio stations receive to view the public file, or noting that the Petition for Rulemaking did not address broadcast radio and advocated only that cable operators and DBS providers be added to the online file.

81. Most radio commenters focus in particular on the impact on small stations, including small NCE stations, of including broadcast radio stations in the online file. In general, these commenters argue that many radio stations are very small with limited financial and other resources, face constant economic pressure, and would find the transition to the online file very burdensome.

82. With respect to NCE radio stations, many commenters advocate that all such stations be permanently

exempt from online filing. Many NCE radio commenters argue that these stations are prohibited from accepting paid political and issue advertising, making access to their political file records less necessary than for commercial stations. Others contend that NCE stations often have more limited financial resources and smaller staffs than commercial stations and rely on donations for the majority of their funding, making the burden of transitioning to the online file particularly challenging. If NCE stations are not exempt from online filing, the Educational Media Foundation argues they should be in the last group of stations required to transition to the online file so that any issues with the online filing process can be resolved before NCEs are required to utilize scarce resources in uploading online files.

83. As we proposed in the *NPRM*, we will commence online public file requirements for radio with commercial stations in markets 1 through 50, as defined by Nielsen Audio (formerly Arbitron), that have five or more full-time employees. We will delay all mandatory online filing for other radio stations for approximately two years, until March 1, 2018. Commencing on this date, all NCE radio stations, all commercial stations in markets below the top 50 as well as those outside all markets, and all commercial top 50 market stations with fewer than five full-time employees must begin placing all new public and political file material in the online file. In addition, as of this date, these stations must have placed all their existing public file material in the online file, with the exception of their existing political file material. Stations transitioning to the online file in the second wave will have approximately two years in which to upload their existing public file material to the online file. Accordingly, we do not believe these stations need an additional six months beyond the March 1, 2018 transition date in which to upload existing public file material.

84. We decline to permanently exempt any category of radio stations from online filing. All broadcasters have public and political inspection file requirements, and we believe that all these files should ultimately be moved to the Commission's online database to improve accessibility and, over time, reduce the covered entities' administrative costs of maintaining these files. We note that, unlike small cable systems which are exempt from the political file as well as other public file requirements, small radio stations are not exempt from the political file

requirement. We also decline to categorically exempt part of the public inspection file from online filing, as proposed by some commenters, with the exception of the existing political file and the correspondence file. Our experience to date with television stations suggests that most entities will not encounter undue difficulties in completing the transition to online filing. While we recognize that some radio broadcasters face significant economic and other resource constraints, we believe that most radio stations will be capable of completing the transition to the online file and are more likely to reap benefits over time in terms of reduced administrative costs if they post their entire public and political files online. Stations that face unique economic or other impediments that make transitioning to the Commission's online file especially difficult may request a waiver.

85. We believe that commencing online file requirements with commercial stations in the top 50 markets with 5 or more full-time employees will ensure that the first group of radio stations to transition to the online file will have sufficient financial and staff resources to address any implementation issues that may arise. Commenters who addressed this issue generally agreed that it is reasonable to phase in online filing for radio stations starting with larger, commercial stations in the top 50 markets. We believe that it is appropriate to delay online filing for other radio stations as they are likely to have fewer financial and other resources and may need additional time to prepare for their transition to the online file. As we discussed in the *NPRM*, radio stations with fewer than 5 full-time employees are exempt from many EEO requirements, including the requirement to file FCC Form 396 (Broadcast Equal Employment Opportunity Program Report). We believe that defining the class of small radio stations based on this EEO exemption makes sense as it is a standard with which stations are already familiar and it provides a clear, bright line test for determining which stations are temporarily exempt from online filing. In addition, information regarding the stations that are exempt from certain EEO requirements is readily available to the Commission and the public, as this information is filed with the FCC and is available on the FCC's Web site.

86. The 5 full-time employee threshold in our EEO rules applies to station employment units. A station employment unit is defined as "a

station or a group of commonly owned stations in the same market that share at least one employee." We will apply the 5 full-time employee threshold for purposes of the temporary exemption from radio online file requirements to station employment units. Thus, where a radio station is commonly owned with one or more other radio or television stations in the same market that share at least one employee, and the station employment unit has five or more full-time employees, each radio station in the group will be considered to exceed the threshold for the temporary exemption from the online public file.

87. We reject the suggestion that we instead use a ten or fifteen-employee threshold for purposes of the temporary exemption from online public file requirements. The commenters that advocate a standard based on a larger number of employees argue generally that this approach better reflects the economic reality of radio versus television broadcasting and will better protect against adverse impacts to smaller radio stations. We believe, however, that a top-50 market commercial station with a staff of five or more full-time employees will have sufficient resources to be able to manage the transition to the online public file in the first wave of radio stations. Stations that face undue economic or other impediments to the transition may request a waiver.

88. We will permit radio stations that are not required to transition to the online file until March 1, 2018 voluntarily to transition to the online file before that date. As discussed above, entities that choose to transition to the online file early must upload all new public and political file documents to the online file on a going-forward basis. All commenters who addressed this issue agree that radio stations that are exempt from online filing should be permitted to use the online file voluntarily.

89. *Contour map and main studio information.* The Commission will create contour maps for the online file for both AM and FM stations based on existing data. Radio stations are currently required to include in their public inspection files "any service contour maps submitted with any application" together with "any other information in the application showing service contours and/or main studio and transmitter location." While we sought comment in the *NPRM* on whether we should require AM stations to upload contour maps to the online file given the complexities of AM contour mapping, we conclude that it is not necessary to require AM stations to upload contour

maps. Instead, the Media Bureau will create contour maps for purposes of the online file for both AM and FM stations.

90. As we proposed in the *NPRM*, we will require stations to provide information to the online file regarding the location of the station's main studio. The Commission's rules do not currently require the reporting of this information, and it is not included on contour maps. We believe that information regarding the location of the main studio will help members of the public to engage in an active dialogue with radio licensees regarding their service, which is one of the goals of this proceeding. This information is also necessary to inform the public of the location of the correspondence file and existing political file (until its retention period expires in two years), both of which will be publicly available at the station. In addition, back-up political files will be available at the main studio (unless placed on a station Web site) if the online file database becomes unavailable. Therefore, consistent with the approach we took with respect to television stations, we will require broadcast radio stations 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. In addition, stations with a main studio located outside of their community of license must list the location of the correspondence file and existing political file, as well as the required local or toll free number.

91. *Donor Lists.* NCE stations are required to retain in the public inspection file lists of donors supporting specific programs. As we proposed in the *NPRM* and as we required for television broadcasters in the *Second Report and Order*, we will require noncommercial radio broadcasters to include donor lists in their online public files. A number of NCE radio commenters argued that donor lists should not be included in the online file in order to protect the privacy of supporters of noncommercial radio broadcasting. National Religious Broadcasters and other commenters argue generally that donors will be less likely to contribute if their names are made public online rather than only in the local public file. National Religious Broadcasters also argues that donors to these stations could become targets of unwanted attention or even crime if donor information is available online.

92. We are not persuaded that making donor information available online will affect contributions to noncommercial radio programming or create significant problems for donors. NCE television

stations have been posting donor lists in their online public files and have not reported any problems. The benefits of placing the public file online, thereby facilitating public access to this information, are substantial, and we decline to exclude donor lists from this requirement on the basis of unsubstantiated claims of commercial harm. We are not requiring broadcasters to make any information publicly available that stations are not already required to make public. Moreover, unlike letters from the public, donor lists do not contain personal information other than the name of the donor. They are not required to include information about the amounts contributed, the donor's address or email, or other potentially sensitive information. Thus, we do not believe that requiring that the list of donor names be posted online, rather than maintained at the station, raises fundamental privacy concerns. Nonetheless, we recognize the concerns expressed by the National Religious Broadcasters. To the extent a licensee fears that online disclosure of donor information with respect to particular programs could discourage a donor from making contributions to the station or subject donors to unwanted attention or crime, the licensee may seek a waiver of the online posting requirement.³

93. National Religious Broadcasters also argues that mandatory Internet posting of the identity of donors to NCE radio stations raises First Amendment concerns. They argue that many NCE stations rely on a talk format and carry programming addressing political or social issues that are unpopular or controversial. According to National Religious Broadcasters, the First Amendment has been held to require, in

³ As with any of our rules, stations may request a waiver of the requirement to post donor information to the online public file under our general waiver standards. See 47 CFR 1.3. Waivers of the requirement to post donor lists to the online public file will be provided, on a program by program basis to stations that submit a showing that meets the general waiver standards. Any such waiver granted by the Commission will be limited to two years. A party may seek a renewal of the waiver after the two-year period. Stations who seek a waiver of the requirement to include information regarding the donors to particular programs in the online file are not required to post this donor information to the online file but may instead retain this information in the station's local public file until Commission review of the waiver request (and any further judicial review) is complete. Information regarding donors supporting particular programs must at all times be retained either in the online file or, if a waiver request has been filed or has been granted or is still under review, in the local public file. If donor information is not included in the online public file the station must include a notation in the online file that this information is available in the station's local public file.

some instances, protection of the privacy of persons who support certain social or political causes, particularly from Internet disclosure. We disagree that the First Amendment requires that information regarding donors to specific NCE programs be excluded from the online file. Making such already-public records available via the Internet does not change the existing requirement that donors be disclosed in the public file; it only changes how they are disclosed. The donor list provides the only complete information regarding program sponsorship on noncommercial stations, public disclosure of which is premised on the basic concept that the public is entitled to know by whom they are being persuaded.

(ii) Content Exempt From the Online File

94. *Letters from the public.* We will exempt letters and emails from the public from the online file and instead require broadcast radio stations to retain such material at the station in a correspondence file. This is the approach we took with respect to television stations in the *Second Report and Order* and the approach we proposed to take with respect to radio broadcasters in the *NPRM*. In the *Second Report and Order*, the Commission determined that including letters and emails from the public in the online file could risk exposing personally identifiable information and that requiring stations to redact such information prior to uploading these documents would be overly burdensome. The Commission determined that letters and emails from the public should be maintained at the station's main studio either in a paper file or electronically on a computer. Further, the Commission clarified that, as required under the current public inspection file rules, this file should include all letters and emails from the public regarding operation of the station unless the letter writer has requested that the letter not be made public or the licensee feels that it should be excluded due to the nature of its content. Finally, the Commission determined that it would not require stations to retain social media messages in their correspondence file. We will apply these same determinations to radio broadcasters.

95. *Named State Broadcasters Associations* urges us to consider eliminating the requirement that broadcasters retain letters from the public in the public inspection file, noting that this requirement does not apply to cable operators. This commenter argues that if a station could

move its entire public file online and eliminate the need to host a local public file and ensure public access to it, the overall burden of maintaining the public inspection file would be reduced.

Consistent with our decision regarding the television correspondence file,⁴ we decline to eliminate in this proceeding the requirement that commercial radio stations retain correspondence from the public, as our focus is on moving the public file to an online regime and not on changing its underlying requirements. While we recognize that our decision to require a correspondence file to be retained locally will prevent stations from realizing the full cost savings of moving their public files online, as a practical matter stations appear to receive few requests to view letters from the public, relieving to some extent the impact of the requirement to retain a local correspondence file.

4. Satellite Radio Public Inspection File
a. Current Rules

96. Licensees in the satellite radio service are required to maintain a public file with two categories of material. First, SDARS licensees are required to comply with EEO requirements similar to those imposed on broadcasters, including the requirement to file EEO reports and to maintain those reports in their public file together with other EEO program information. Second, satellite radio licensees are required to maintain a political file. In addition, SiriusXM, the current, sole U.S. SDARS licensee, is required to retain a third category of material in the public file. SiriusXM made a voluntary commitment to make capacity available for noncommercial educational and informational programming, similar to the requirement imposed on DBS providers, in connection with its merger application. As part of its approval of the merger, the Commission required that the merged entity reserve channels for educational and informational programming, offer those channels to qualified programmers, and comply with the public file requirements of section 25.701(f)(6) of the Commission's rules, which sets forth public file requirements for the noncommercial set-aside for DBS providers.

b. Online Public File Requirements

97. As we proposed in the *NPRM*, we will treat satellite radio licensees in the same manner as television, cable, DBS,

⁴ As noted above, however, the Commission will initiate a separate proceeding to consider whether to eliminate the correspondence file requirement for commercial broadcasters.

and broadcast radio entities by requiring them to upload to the online file only material that is not already on file at the Commission. The only documents that DBS providers file with the Commission that must also be retained in their public inspection files are EEO forms 396 and 397. The Commission will upload these documents to the online file. We do not believe that requiring SDARS licensees to upload other public file materials to the online file will be unduly burdensome as the number of public file requirements for this service is fewer than for other services discussed in this item and because the current, sole U.S. SDARS licensee has ample financial resources to comply with this online file requirement. We also believe that, as with DBS, the transition to an online file is particularly important for satellite radio because of that service's nationwide reach and the fact that the current licensee maintains only one public and political file for the entire U.S., making in-person access very difficult.

98. With respect to the political file, we will treat satellite radio similar to DBS, as they are both nationwide services with few licensed service providers. Similar to the requirement we adopt for the DBS political file and consistent with our approach for television stations, cable systems, and radio broadcasters, SDARS licensees will not be required to upload their existing political files to the online file but will instead be permitted to maintain existing material in their physical political file, and upload documents to the online political file only on a going-forward basis. SDARS licensees must begin uploading new public and political file material to the online public file 30 days after the Commission announces in the **Federal Register** that OMB has completed its review of this Order under the Paperwork Reduction Act ("PRA") and approved the collection. These licensees will have six months from the effective date of the rules (*i.e.*, six months after the Commission publishes a notice in the **Federal Register** announcing OMB approval under the PRA) to complete the process of uploading existing public file materials to the online file, with the exception of existing political files which entities are permitted, but not required, to upload to the Commission's online public file.

99. As discussed above, if the FCC's online public file database is temporarily unavailable, we will require SDARS licensees to make their back-up political files available to the public by, at their own choice, either an online method, via the entity's own Web site,

or by answering questions and accommodating requests for copies of political file materials made by telephone. We believe it is appropriate to require SDARS licensees to provide access to political file documents either online or by telephone as these entities provide service nationwide making in-person access to these files difficult for most subscribers. In addition, SDARS licensees have the option to provide online access to back-up political file materials in lieu of responding to telephone inquiries regarding these materials. Finally, similar to our decision regarding the organization of DBS political files, we will permit SDARS licensees the flexibility to organize their political files in any manner that reasonably allows users to review their contents and reflects how ads were purchased and shown.

5. Open Video System Operators

100. We decline at this time to require Open Video System ("OVS") operators to use the Commission's online public inspection file. We noted in the *NPRM* that OVS operators have several public file obligations and sought comment on whether these entities should be required to make this information available in the online public file. No commenters addressed this issue. We may revisit the issue of OVS use of the online file at a later time.

IV. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

101. As required by the Regulatory Flexibility Act of 1980, as amended ("RFA") an Initial Regulatory Flexibility Act Analysis ("IRFA") was incorporated in the *Notice of Proposed Rulemaking* in this proceeding. The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. The Commission received no comments on the IRFA. This Final Regulatory Flexibility Act Analysis ("FRFA") conforms to the RFA.

1. Need for, and Objectives of, the Second Report and Order

102. One of a television broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license. To ensure that stations meet this obligation, the Commission relies on viewers and listeners as an important source of information about the nature of a station's programming, operations, and compliance with Commission rules. To provide the public with access to information about station operations,

the Commission's rules have long required television and radio broadcast stations to maintain a physical public inspection file, including a political file, at their respective stations or headquarters and to place in the file records that provide information about station operations. Cable operators, satellite TV (also referred to as "Direct Broadcast Satellite" or "DBS") providers, broadcast radio licensees, and satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees also have public and political file requirements modeled, in large part, on the longstanding broadcast requirements.

103. In 2012, the Commission adopted online public file rules for broadcast television stations that required them to post public file documents to a central, FCC-hosted online database rather than maintaining the files locally at their main studios. Our goal was to modernize the procedures television broadcasters use to inform the public about how they are serving their communities, to make information concerning broadcast service more accessible to the public and, over time, to reduce the cost of broadcasters' compliance. This *Report and Order* extends our modernization effort to include the public file documents that cable operators, satellite TV (also referred to as "Direct Broadcast Satellite" or "DBS") providers, broadcast radio licensees, and satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees are required to maintain. By including these services in our transition to an online public inspection file regime, our goal is to continue our effort to harness the efficiencies made possible by digital technology to make public file information more readily available while at the same time minimizing the burden of maintaining the file.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

104. No comments were filed in response to the IRFA.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

105. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental

jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

106. Cable Companies and Systems. The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission’s rules, a “small cable company” is one serving 400,000 or fewer subscribers nationwide. Industry data shows that there were currently 660 cable operators. Of this total, all but ten cable operators nationwide are small under this size standard. In addition, under the Commission’s rate regulation rules, a “small system” is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,629 cable systems nationwide. Of this total, 4,057 cable systems have less than 20,000 subscribers, and 572 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

107. Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” There are approximately 54 million cable video subscribers in the United States today. Accordingly, an operator serving fewer than 540,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the

number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

108. Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic “dish” antenna at the subscriber’s location. DBS, by exception, is now included in the SBA’s broad economic census category, Wired Telecommunications Carriers, which was developed for small wireline businesses. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 3,188 firms that operated for that entire year. Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small entities. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled “Cable and Other Program Distribution.” As of 2002, the SBA defined a small Cable and Other Program Distribution provider as one with \$12.5 million or less in annual receipts. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network. Each currently offers subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined under the superseded SBA size standard would have the financial wherewithal to become a DBS service provider.

109. Radio Broadcasting. The SBA defines a radio broadcast station as a small business if such station has no more than \$38.5 million in annual receipts. Business concerns included in this industry are those “primarily engaged in broadcasting aural programs by radio to the public.” According to review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of the then number of commercial radio stations (11,341) have revenues of \$35.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial radio stations to be 4,090. The Commission does not compile and otherwise does

not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. These stations rely primarily on grants and contributions for their operations, so we will assume that all of these entities qualify as small businesses. We note that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

110. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

111. Satellite Radio. The rules proposed in this *NPRM* would affect the sole, current U.S. provider of satellite radio (“SDARS”) services, XM-Sirius, which offers subscription services. XM-Sirius reported revenue of \$3.8 billion in 2013 and a net income of \$377 million. In light of these figures, we believe it is unlikely that this entity would be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

112. The rule changes adopted in the *Report and Order* affect reporting, recordkeeping, or other compliance requirements. Cable, DBS, broadcast radio, and SDARS entities are currently required to maintain a “local” copy of their public inspection files. The *Report and Order* requires these entities to submit documents, including political file materials, for inclusion in an online public file hosted on the Commission’s Web site. Items in the public file that are required to be filed with the Commission will be automatically

imported into the entity's online public file. Entities will only be responsible for uploading to the online file items that are not required to be filed with the Commission under any other rule. The *Report and Order* also excludes some items from the online public file requirement, such as the existing political file, which must continue to be maintained locally until the end of the retention period unless voluntarily uploaded to the online file. Office staff will be able to upload documents to the online file in most cases; no professional skills will generally be necessary to perform that task.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

113. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

114. The *Report and Order* includes a number of measures designed to minimize the effort and cost entities must undertake to move their public files online. Specifically, we require entities to upload to the online file only public file documents that are not already on file with the Commission or that the Commission maintains in its own database. We also exempt existing political file material from the online file requirement and require only that political file documents be uploaded on a going-forward basis. In addition, with only minor exceptions—requiring cable operators to provide information about the geographic areas they serve and the employment units associated with each cable system, clarifying the documents required to be included in the cable public file, and requiring cable, DBS, broadcast radio, and SDARS entities to provide certain location and contact information for their local file—we do not adopt new or modified public inspection file requirements in this proceeding. Our goal is to adapt our existing public file requirements to an online format. While we recognize that entities may incur a modest, one-time transitional cost to upload some portions of their existing public file to

the online database, we believe this initial expense will be offset by the public benefits of online disclosure. We also believe that, over time, entities will benefit from the lower costs of sending documents electronically to the Commission as opposed to creating and maintaining a paper file at the local or headquarters' office or main studio and assisting the public in accessing it.

115. In addition, with respect to radio licensees the *Report and Order* commences the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing for two years all online file requirements for other radio stations. This delay will give these stations additional time to familiarize themselves with the online filing requirements and will permit them to spread out their transition to the online file over a period of two years. The *Report and Order* also exempts small cable systems temporarily from the requirement to commence uploading new political file material to the online public file and exempts very small cable systems from all requirements to upload documents to the Commission's online database.

116. Overall, we believe that the *Report and Order* appropriately balances the interests of the public against the interests of the entities who will be subject to the rules, including those that are smaller entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

None.

B. Report to Congress

117. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

C. Paperwork Reduction Act Analysis

118. This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). The requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, we previously sought specific comment on how the Commission might further reduce the information collection

burden for small business concerns with fewer than 25 employees.

V. Ordering Clauses

119. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 303(r), 315, and 335 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 315, and 335 this Report and Order *is adopted*.

120. *It is further ordered* that the requirement that cable systems with 1,000 or more subscribers, DBS providers, SDARS licensees, and large market commercial radio stations with five or more full-time employees place their new public inspection file documents on the Commission-hosted online public file *shall be effective* 30 days after the Commission publishes a notice in the **Federal Register** announcing OMB approval. These entities will be responsible for placing existing public file documents into the Commission-hosted online public file within six months after the Commission published a notice in the **Federal Register** announcing OMB approval. Entities will not be required to place in the online public file existing political file material. Cable systems with 1,000 or more subscribers but fewer than 5,000 subscribers will not be required to place new political file material in the Commission's online file until March 1, 2018. In addition, until March 1, 2018, all NCE radio broadcast stations, commercial radio broadcast stations in the top 50 markets with fewer than five full-time employees, and all commercial radio broadcast stations in markets below the top 50 or outside all markets are exempt from all requirements to place public file materials in the online public file. As of March 1, 2018 these entities must place all existing public file material in the online public file, with the exception of existing political file material, and must begin placing all new public and political file material in the online file. Commercial broadcast radio licensees must continue to retain letters and emails from the public in the local public file and will not be permitted to upload those materials to the online public file.

121. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

122. *It is further ordered* that the Commission *shall send* a copy of this Report and Order in a report to Congress and the Government Accountability

Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 25

Direct Broadcast Satellite, Satellite radio, Reporting and recordkeeping requirements

47 CFR Part 73

Radio, Recording and recordkeeping requirements

47 CFR Part 76

Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 25, 73, and 76 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: Interprets or applies sections 4, 301, 302, 303, 307, 309, 319, 332, 705, and 721 of the Communications Act, as amended, 47 U.S.C. 154, 301, 302, 303, 307, 309, 319, 332, 705, and 721, unless otherwise noted.

■ 2. Section 25.601 is amended by revising the last sentence to read as follows:

§ 25.601 Equal employment opportunities.

* * * Notwithstanding other EEO provisions within these rules, a licensee or permittee of a direct broadcast satellite station operating as a broadcaster, and a licensee or permittee in the satellite DARS service, must comply with the equal employment opportunity requirements set forth in 47 CFR part 73.

■ 3. Section 25.701 is amended by revising the section heading, paragraph (d) introductory text, and paragraph (d)(2), removing paragraph (d)(3), and revising paragraphs (e)(3) and (f)(6) to read as follows:

§ 25.701 Other DBS Public interest obligations.

* * * * *

(d) Political file. Each DBS provider shall maintain a complete and orderly political file.

* * * * *

(2) All records required to be retained by this section must be placed in the political file as soon as possible and must be retained for a period of two years. After the effective date of this

section, DBS providers shall place all new political file material required to be retained by this section in the online file hosted by the Commission.

(e) * * *

(3) DBS providers airing children's programming must maintain in the online file hosted by the Commission records sufficient to verify compliance with this rule. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. 503(b)(6)(B).

* * * * *

(f) * * *

(6) Public file. (i) In addition to the political file requirements in § 25.701, each DBS provider shall maintain in the online file hosted by the Commission a complete and orderly record of:

(A) Quarterly measurements of channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its response to any capacity changes;

(B) 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;

(C) A record of entities that have requested capacity, disposition of those requests and reasons for the disposition.

(ii) All records required by paragraph (i) of this paragraph shall be placed in the online file hosted by the Commission as soon as possible and shall be retained for a period of two years.

(iii) Each DBS provider must also place in the online 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.

(iv) Each DBS provider must provide a link to the online public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the provider has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each DBS provider also must include in the online public file hosted by the Commission the address of the provider's local public file, if the provider retains documents in the local public file that are not available in the Commission's online file, and the name, phone number, and email address of the

provider's designated contact for questions about the public file.

* * * * *

■ 4. Section 25.702 is added to read as follows:

§ 25.702 Other SDARS Public interest obligations.

(a) Political broadcasting requirements. The following political broadcasting rules shall apply to all SDARS licensees: 47 CFR 73.1940 (Legally qualified candidates for public office), 73.1941 (Equal opportunities), 73.1942 (Candidate rates), and 73.1944 (Reasonable access).

(b) Political file. Each SDARS licensee shall maintain a complete and orderly political file.

(1) The political file shall contain, at a minimum:

(i) A record of all requests for SDARS origination time, the disposition of those requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased; and

(ii) A record of the free time provided if free time is provided for use by or on behalf of candidates.

(2) SDARS licensees shall place all records required by this section in the political file as soon as possible and shall retain the records for a period of two years. After the effective date of this section, SDARS licensees shall place all new political file material required to be retained by this section in the online public file hosted by the Commission.

(c) Public inspection file. (1) Each SDARS applicant or licensee must also place in the online public file hosted by the Commission the records required to be placed in the public inspection file by 47 CFR 25.601 and 73.2080 (equal employment opportunities (EEO)) and retain those records for the period required by those rules.

(2) Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the licensee has a Web site, and provide on its Web site 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 also must include in the online public file the address of the licensee's local public file, if the licensee retains documents in the local public file that are not available in the Commission's online file, and the name, phone number, and email address of the licensee's

designated contact for questions about the public file.

* * * * *

PART 73—RADIO BROADCAST SERVICES

■ 5. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 6. Section 73.1943 is amended by revising paragraph (d) to read as follows:

§ 73.1943 Political file.

* * * * *

(d) *Location of the file.* A licensee or applicant must post all of the contents added to its political file after 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.

■ 7. Section 73.3526 is amended by revising paragraph (b)(1) through (3) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) * * *

(1) For radio licensees temporarily exempt from the online public file hosted by the Commission, as discussed in paragraph (b)(2) of this section, a hard copy of the public inspection file shall be maintained at the main studio of the station, unless the licensee elects voluntarily to place the file online as discussed in paragraph (b)(2) of this section. For all licensees, letters and emails from the public, as required by paragraph (e)(9) of this section, shall be maintained at the 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.

(2)(i) A television station licensee or applicant, and any radio station licensee or applicant not temporarily exempt as described in this paragraph, shall place the contents required by paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission, with the exception of

letters and emails from the public as required by paragraph (e)(9) of this section, which shall be retained at the station in the manner discussed in paragraph (b)(1) of this section; and the political file as required by paragraph (e)(6) of this section, as discussed in paragraph (b)(3) of this section. Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018 may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1) of this section.

(ii) A station must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the station has a Web site, and provide contact information on its Web site for a station representative that can assist any person with disabilities with issues related to the content of the public files. A station also is 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. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at the station or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

(3)(i) A licensee or applicant shall place the contents required by paragraph (e)(6) of this section of its political inspection file in the online public file hosted by the Commission. Political inspection file material already in existence 30 days after the effective date of this provision, if not placed in the online public file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period.

(ii) Any television station not in the top 50 DMAs, and any station not affiliated with one of the top four broadcast networks, regardless of the size of the market it serves, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) of this section until July 1, 2014. For these stations, effective July

1, 2014, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's Web site, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any station that is not required to place its political file in the online file hosted by the Commission before July 1, 2014 may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section.

(iii) Any radio station not in the top 50 Nielsen Audio markets, and any radio station with fewer than five full-time employees, shall continue to retain the political file at the station in the manner discussed in paragraph (b)(1) of this section until March 1, 2018. For these stations, effective March 1, 2018, any new political file material shall be placed in the online public file hosted by the Commission, while the material already existing in the political file as of March 1, 2018, if not placed in the online public file hosted by the Commission, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any station that is not required to place its political file on the Commission's Web site before March 1, 2018, may choose to do so, instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section.

* * * * *

■ 8. Section 73.3527 is amended by revising paragraph (b)(1) and (2) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(b) * * *

(1) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station until March 1, 2018, except that, as discussed in paragraph (b)(2)(ii) of this section, any radio station may voluntarily place its public inspection file in the online public file hosted by the Commission before March 1, 2018, if it chooses to do so, instead of retaining the file at 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.

(2)(i) A noncommercial educational television station licensee or applicant shall place the contents required by

paragraph (e) of this section of its public inspection file in the online public file hosted by the Commission, with the exception of the political file as required by paragraph (e)(5) of this section, which may be retained at the station in the manner discussed in paragraph (b)(1) of this section until July 1, 2014. Effective July 1, 2014, any new political file material shall be placed in the online public file hosted by the Commission, while the material in the political file as of July 1, 2014, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any noncommercial educational station that is not required to place its political file in the online public file hosted by the Commission before July 1, 2014 may choose to do so instead of retaining the political file at the station in the manner discussed in paragraph (b)(1) of this section.

(ii) Beginning March 1, 2018, noncommercial educational radio station licensees and applicants shall place the contents required by paragraph (e) in the online public inspection file hosted by the Commission. For these stations, effective March 1, 2018, any new political file material shall be placed in the Commission's online public file, while the material in the political file as of March 1, 2018, if not placed in the Commission's online public file, shall continue to be retained at the station in the manner discussed in paragraph (b)(1) of this section until the end of its retention period. However, any radio station that is not required to place its public inspection file in the online public file hosted by the Commission before March 1, 2018, may choose to do so, instead of retaining the public inspection file at the station in the manner discussed in paragraph (b)(1).

(iii) A station must provide a link to the online public inspection file hosted by the Commission from the home page of its own Web site, if the station has a Web site, and provide contact information for a station representative on its Web site that can assist any person with disabilities with issues related to the content of the public files. A station also is required to include in the online public file hosted by the Commission 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. To the extent this section refers to the local public inspection file, it refers to the public file of an individual station, which is either maintained at

the station or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

* * * * *

■ 9. Section 73.3580 is amended by revising paragraph (d)(4)(i) introductory text and paragraph (d)(4)(ii) introductory text to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

* * * * *

(d) * * *

(4) * * *

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by the application). Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection at www.fcc.gov. It contains information concerning this station's performance

during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

(ii) *Post-filing announcements.* During the period beginning of the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

Television announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at www.fcc.gov. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

Radio announcement: On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection at www.fcc.gov. It contains information concerning this

station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station) or may be obtained from the FCC, Washington, DC 20554.

* * * * *

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 10. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 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.

■ 11. Section 76.630 is amended by revising the first undesignated paragraph below paragraph (a)(2) introductory text to read as follows:

§ 76.630 Compatibility with consumer electronics equipment.

- (a) * * *
(2) * * *

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. 47 CFR 76.630(a). The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver shall be available for public inspection at www.fcc.gov.

* * * * *

■ 12. Section 76.1700 is revised to read as follows:

§ 76.1700 Records to be maintained by cable system operators.

(a) *Public inspection file.* The following records must be placed in the online public file hosted by the Commission, except as indicated in paragraphs (a)(6) and (d) of this section and except that the records listed in paragraph (a)(1) of this section (political file) that are in existence 30 days after the effective date of this provision, if not placed in the online file, shall continue to be retained at the system and made available to the public in the manner discussed in paragraph (e) of this section until the end of the retention

period. In addition, any cable system with fewer than 5,000 subscribers shall continue to retain the political file at the system in the manner discussed in paragraph (e) of this section until March 1, 2018. For these systems, effective March 1, 2018, any new political file material shall be placed in the online file hosted by the Commission, while the material in the political file as of March 1, 2018, if not placed on the Commission's Web site, shall continue to be retained at the system in the manner discussed in paragraph (e) of this section until the end of its retention period. However, any system that is not required to place its political file on the Commission's Web site before March 1, 2018 may choose to do so, instead of retaining the political file at the system in the manner discussed in paragraph (e) of this section.

(1) *Political file.* All requests for cablecast time made by or on behalf of a candidate for public office and all other information required to be maintained pursuant to § 76.1701;

(2) *Equal employment opportunity.* All EEO materials described in § 76.1702 except for any EEO program annual reports, which the Commission will link to the electronic version of all systems' public inspection files;

(3) *Commercial records on children's programs.* Sufficient records to verify compliance with § 76.225 in accordance with § 76.1703;

(4) *Performance tests (channels delivered).* The operator of each cable television system shall maintain a current listing of the cable television channels which that system delivers to its subscribers in accordance with § 76.1705;

(5) *Leased access.* If a cable operator adopts and enforces written policy regarding indecent leased access programming, such a policy shall be published in accordance with § 76.1707;

(6) *Principal headend.* The operator of every cable system shall maintain in its public inspection file the designation and location of its principal headend in accordance with § 76.1708. Cable systems may elect not to post this information to the Commission's online file but instead retain this information in their local public file maintained in the manner discussed in paragraph (e) of this section;

(7) *Availability of signals.* The operator of every cable television system shall maintain a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements in accordance with § 76.1709;

(8) *Operator interests in video programming.* Cable operators shall

maintain records regarding the nature and extent of their attributable interests in all video programming services as well as information regarding their carriage of such vertically integrated video programming services on cable systems in which they have an attributable interests in accordance with § 76.1710;

(9) *Sponsorship identification.* Whenever sponsorship announcements are omitted pursuant to § 76.1615(f) of Subpart T, the cable television system operator shall maintain a list in accordance with § 76.1715;

(10) *Compatibility with consumer electronics equipment.* Cable system operators generally may not scramble or otherwise encrypt signals carried on the basic service tier. Copies of requests for waivers of this prohibition must be available in the public inspection file in accordance with § 76.630.

(b) *Information available to the franchisor.* These records must be made available by cable system operators to local franchising authorities on reasonable notice and during regular business hours, except as indicated in paragraph (d) of this section.

(1) *Proof-of-performance test data.* The proof of performance tests shall be made available upon request in accordance with § 76.1704;

(2) *Complaint resolution.* Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with § 76.1713.

(c) *Information available to the Commission.* These records must be made available by cable system operators to the Commission on reasonable notice and during regular business hours, except as indicated in paragraph (d) of this section.

(1) *Proof-of-performance test data.* The proof of performance tests shall be made available upon request in accordance with § 76.1704;

(2) *Signal leakage logs and repair records.* Cable operators shall maintain a log showing the date and location of each leakage source in accordance with § 76.1706;

(3) *Emergency alert system and activations.* Every cable system shall keep a record of each test and activation of the Emergency Alert System (EAS). The test is performed pursuant to the procedures and requirements of part 11 of this chapter and the EAS Operating Handbook. The records are kept in accordance with part 11 of this chapter and § 76.1711;

(4) *Complaint resolution.* Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. Aggregate data based upon these complaints shall be made available for inspection in accordance with § 76.1713;

(5) *Subscriber records and public inspection file.* The operator of a cable television system shall make the system, its public inspection file, and its records of subscribers available for inspection upon request in accordance with § 76.1716.

(d) *Exceptions to the public inspection file requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the online public file and from the public record requirements contained in § 76.1701 (political file); § 76.1702 (EEO records available for public inspection); § 76.1703 (commercial records for children's programming); § 76.1704 (proof-of-performance test data); § 76.1706 (signal leakage logs and repair records); § 76.1714 (FCC rules and regulations); and § 76.1715 (sponsorship identification).

(e) *Location of records.* Public file material that continues to be retained at the system shall be retained in a public inspection file maintained at the office in the community served by the system that the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business and, if the system operator does not maintain such an office in the community, at any accessible place in the communities served by the system (such as a public registry for documents or an attorney's office). Public file locations will be open at least during normal business hours and will be conveniently located. The public inspection file shall be available for public inspection at any time during regular business hours for the facility where they are kept. All or part of the public inspection file may be maintained in a computer database, as long as a computer terminal capable of accessing the database is made available, at the location of the file, to members of the public who wish to review the file.

(f) *Links and contact and geographic information.* A system must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the system has a Web site, and provide contact information on its Web site 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. To the extent this section refers to the local public inspection file, it refers to the public file of a physical system, which is either maintained at the location described in paragraph (e) or on the Commission's Web site, depending upon where the documents are required to be maintained under the Commission's rules.

(g) *Reproduction of records.* Copies of any material in the public inspection file that is not also available in the Commission's online file shall be available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall 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.

■ 13. Section 76.1702 is amended by revising paragraph (a) to read as follows:

§ 76.1702 Equal employment opportunity.

(a) 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 pursuant to § 76.77 and the equal employment opportunity program information described in paragraph (b) of this section. These materials shall be placed in the Commission's online public inspection file(s), maintained on the Commission's database, for each cable system associated with the employment unit. These materials shall 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 online public inspection file(s), maintained on the Commission's database, for every cable

system associated with the headquarters employment unit.

* * * * *

■ 14. Section 76.1709 is amended by revising paragraphs (a) and (b) to read as follows:

§ 76.1709 Availability of signals.

(a) The operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to § 76.56. Such list shall include the call sign, community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

(b) Such records must be maintained in accordance with the provisions of § 76.1700.

* * * * *

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BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 236

[Docket No. FRA-2016-0012, Notice No. 1]

RIN 2130-AC56

Positive Train Control Systems

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FRA is amending its regulations to address changes in deadlines for positive train control (PTC) system implementation required by the Positive Train Control Enforcement and Implementation Act of 2015. FRA is also making conforming amendments and removing portions of its PTC regulations that are no longer applicable.

DATES: This final rule is effective April 29, 2016. Petitions for reconsideration must be received on or before April 19, 2016. Petitions for reconsideration will be posted in the docket for this proceeding. Comments on any submitted petition for reconsideration must be received on or before June 3, 2016.

ADDRESSES: *Petitions for reconsideration and comments on petitions for reconsideration:* Any petitions for reconsideration or comments on