Dated: April 26, 2012.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.910, the table is amended by revising the entry for the inert ingredient which reads in part ''α-[p-(1,1,3,3-tetramethylbutyl)phenyl]'' to read as follows:

§ 180.910 Inert ingredients used pre and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* *	* * *
α-[p-(1,1,3,3-tetramethylbutyl)phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)phenol with a range of 1–14 or 30–70 moles of ethylene oxide: If a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1–14 or 30–70 (CAS Reg. Nos. 9036–19–5, 9002–93–1).	Not to exceed 7% of pesticide formulation.	Surfactants related adjuvants of surfactants.
* * *	* *	* * *

* * * * *

[FR Doc. 2012–11064 Filed 5–10–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 00–168, 00–44; FCC 12–44]

Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission revises its public file regulations to require that television station public inspection files be made available in an online public file to be hosted on the Commission's Web site.

DATES: The rules in this document contain information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). These rules will become effective 30 days after the Commission publishes a document in the **Federal Register** announcing OMB approval of those information collection requirements.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Holly Saurer, *Holly.Saurer@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order,* FCC 12–44, adopted and released on April 27, 2012. 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., CY–A257, Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

The Commission will seek written comments on the Paperwork Reduction Act (PRA) modified information collection requirements in a separate notice that will be published in the **Federal Register**.

Paperwork Reduction Act of 1995 Analysis

This document contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in this *Second Report and Order* as required by the Paperwork Reduction Act of 1995, Public Law 104–13 in a separate notice to be published in the **Federal Register**. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), 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. We received one comment specifically addressing this issue. In the present document, we have assessed the effects of the new requirements on small businesses, including those with fewer than 25 employees, in the Final Regulatory Flexibility Analysis (''FRFA'') below.

Summary of the Second Report and Order

I. Introduction

1. In this *Second Report and Order* we modernize the procedures television broadcasters use to inform the public about how they are serving their

communities, by having stations post their public files online in a central, Commission-hosted database, rather than maintaining the files locally at their main studios. This updating of our rules harnesses current technology to make information concerning broadcast service more accessible to the public and, over time, reduce broadcasters' costs of compliance. This Order is another step in our modernization of the Commission's processes to transition from paper filings and recordkeeping to digital technology. Without imposing any new reporting obligation, it will help bring broadcast disclosure into the 21st century.

2. Specifically, we adopt—with significant modifications—the proposal discussed in the *Further Notice of Proposed Rulemaking* (''*FNPRM*'') to replace the decades-old requirement that commercial and noncommercial television stations maintain a public file at their main studios with a requirement to post most of the documents in that file to an online public file to be hosted by the Commission. All permittees and licensees of a TV or Class A TV station in the commercial and noncommercial educational broadcast services must maintain a public inspection file. We have departed from the proposal in a number of respects to maximize public benefits while avoiding compliance costs that the record suggests would not be justified at this time. First, because many stations' existing political files are large, and the retention period for the political file is shorter than for other portions of the public file, we will not require stations to incur the cost of upload their existing political files to the online public file. Rather, stations may upload documents in that portion of the public file only prospectively. Second, broadcasters will be responsible for uploading only those items now required to be in the public file but not otherwise filed with the Commission or available on the Commission's Web site. In particular, the Commission will itself import to the online public file any document or information now required to be kept in the public file and that must already be filed with the Commission electronically in the Consolidated DataBase System (''CDBS''), so that stations do not need to post that information. Third, we do not adopt new disclosure obligations for sponsorship identifications and shared services agreements at this time, as had been proposed in the *FNPRM.* Rather, broadcasters will only be required to place in their online files material that is already required to be placed in their local files. Fourth, we do not impose specific formatting requirements on broadcasters at this time, although stations should upload relevant documents either in their existing electronic format or in a simple, easily created electronic format such as .pdf. Finally, we will provide an organized file system for uploading documents so that the resulting public file for each station is orderly, and organizationally similar for all stations, thus promoting ease of use by stations and the public.

3. To better ensure that the Commission can accommodate television broadcasters' online filings and to limit any unforeseen start-up difficulties to those stations that are best able to address them, we will phase in the new posting requirements. For the next two years we will only require stations that are affiliated with the top four national networks (ABC, NBC, CBS and Fox) and that are licensed to serve communities in the top 50 Designated Market Areas (''DMAs'') to post political file documents online. We exempt all other stations from posting their political file documents to their online public file until July 1, 2014. The Media Bureau will issue a Public Notice no later than July 1, 2013 to seek comment on the impact of this posting requirement, to enable us to consider whether any changes should be made before it takes effect for the other stations. We also defer considering whether to adopt online posting for radio licensees and multichannel video programming distributors until we have gained experience with online posting of public files of television broadcasters.

II. Background

4. 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. Rather than dictating how broadcasters must meet that obligation, the Commission affords broadcasters broad latitude, subject to a reporting requirement under which broadcasters must maintain a public inspection file that gives the public access to information about the station's operations.

5. Almost seventy-five years ago—in 1938—the Commission promulgated its first political file rule. That initial rule was essentially identical to our current political file regulation in its requirements that the file be available for ''public inspection'' and include both candidate requests for time and the disposition of those requests, including the ''charges made'' for the broadcast time. More than 45 years ago—in 1965—the Commission additionally adopted a broader public inspection file rule. The public file requirement grew out of Congress' 1960 amendment of Sections 309 and 311 of the Communications Act of 1934 (the ''Act''), which allowed greater public participation in broadcast licensing. Finding that Congress, in enacting these provisions, was guarding ''the right of the general public to be informed, not merely the rights of those who have special interests,'' the Commission adopted the public inspection file requirement to ''make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.''

6. In October 2000, in the first *Notice of Proposed Rulemaking* issued in this proceeding, the Commission concluded that ''making information regarding how a television broadcast station serves the public interest easier to understand and more accessible will not only promote discussion between the licensee and its community, but will lessen the need for government involvement in ensuring that a station is meeting its public interest obligation.'' The Commission tentatively concluded that it should require television licensees to make the contents of their public inspection files, including a standardized form reflecting the stations' public interest programming, available on their stations' Web sites or, alternatively, on the Web site of their state broadcasters association. In 2007, the Commission adopted a *Report and Order* implementing these proposals.

7. Following the release of the *2007 Report and Order,* the Commission received petitions for reconsideration from several industry petitioners and public interest advocates. The industry petitioners raised a number of issues, generally contending that the requirements were overly complex and burdensome. Public interest advocates argued that the political file should be included in the online public file requirement rather than exempted as provided in the *2007 Report and Order.* In addition, five parties appealed the *2007 Report and Order,* and the cases were consolidated in the United States Court of Appeals for the District of Columbia Circuit. The court granted a petition to hold the proceeding in abeyance while the Commission reviewed the petitions for reconsideration. Challenging the rules in a third forum, several parties opposed the *2007 Report and Order*'s ''information collection'' under the Paperwork Reduction Act.[1]

[1] The Paperwork Reduction Act of 1995, Pub. L. 104–13, requires that the Office of Management and

8. In June 2011, Commission staff released ''The Information Needs of Communities'' Report (''*INC Report''*), a comprehensive report on the current state of the media landscape created by a working group including Commission staff, scholars, and consultants. The *INC Report* discussed both the need to empower citizens to ensure that broadcasters serve their communities in exchange for the use of public spectrum, and the need to remove unnecessary burdens on broadcasters who aim to serve their communities. The *INC Report* recommended an online system for public inspection files in order to ensure greater public access. It also recommended that stations be required to disclose online shared services agreements and ''pay-for-play'' arrangements. The *INC Report* further suggested that governments at all levels collect and publish data in forms that make it easy for citizens, entrepreneurs, software developers, and reporters to access and analyze information to enable them to present the data in more useful formats, and noted that greater transparency by government and media companies can help reduce the cost of reporting, empower consumers, and foster innovation.

9. In October 2011, the Commission vacated the *2007 Report and Order,* determining that technological and marketplace changes since 2007 may be pertinent to our consideration of television broadcasters' public disclosure obligations, and that the best course of action would be to take a fresh look at the policy issues raised in this proceeding. The Commission also adopted an *FNPRM* to refresh the record in this proceeding. It solicited comment on various proposals, including some of the proposals parties raised on reconsideration, to improve public access to information about how broadcasters are serving their communities while minimizing the burdens placed upon broadcasters.

III. Discussion

10. The updated rules we adopt today modernize disclosure procedures to improve access to station files that, for decades, have been public more in theory than in practice. Today, reviewing a television station's public file typically involves the substantial expense and inconvenience of traveling to the station and paying for paper copies. Under our rules, review will involve a quick and essentially costless Internet search. This modernization is plain common sense. The evolution of the Internet and the spread of broadband Internet access has made it easy for stations to post material online and for many consumers to find information online. The television broadcast industry should not be left out of the online revolution that has improved the delivery of products and services across our economy, as well as the availability of government services and government information to the public.

11. At the same time, we are committed to updating the outdated procedures for public access to television stations' public files in a manner that avoids unnecessary burdens on broadcasters. We have significantly departed from the proposals in the *FNPRM* to achieve this goal. Based on this balance of considerations, the online public file requirements we adopt today will replace the existing in-station retention requirements as follows:

- Each station's entire public file will be hosted online, by the Commission.
- Television broadcasters will be responsible for uploading only those items now required to be in the public file but not otherwise filed with the Commission or available on the Commission's Web site. These items include citizen agreements, certain EEO materials, issues/programs lists, children's television commercial limits records, donor lists for NCEs, local public notice announcements, time brokerage agreements, must-carry or retransmission consent elections, joint sales agreements, Class A continuing eligibility documentation, materials related to FCC investigations (other than investigative information requests from the Commission), and any new political file materials.
- Any document or information now required to be kept in a television station's public file and that must already be filed with the Commission electronically in the Consolidated DataBase System (''CDBS'') will be imported to the online public file and updated by the Commission. This includes authorizations, applications and related materials, contour maps, ownership reports and related materials, EEO materials, The Public and Broadcasting manual, children's television programming reports, and Letters of Inquiry and other investigative information requests from the Commission, unless otherwise directed by the inquiry itself.
- Television stations will not be required to upload their existing political files to the online file; rather, they will be permitted to maintain at the station those documents placed in their political file before the effective date of our rules, and only upload documents to the online political file on a going-forward basis.
- To smooth the transition for both stations and the Commission and to allow smaller broadcasters additional time to begin posting their political files online, we will exempt all stations that are not in the top 50 DMAs and all stations not affiliated with the top four national television broadcast networks, regardless of the size of the market they serve, from having to post new political file materials online until July 1, 2014.
- Stations will not be required to upload letters and emails from the public to their online public file; rather, they will continue to maintain them in a correspondence file at the main studio.
- Stations will not be required to include in their online public file any documents not already required to be included in their local file.

We believe these procedures will substantially advance the original goals of the public file requirements and better enable the public to engage with their local broadcasters. Further, while broadcasters will incur a modest, one-time transitional cost to upload some portions of their existing public file to the Commission's online database, that initial expense will be offset by the public benefits of online disclosure. Over time, moreover, broadcasters will benefit from the lower costs of sending documents electronically to the Commission, as opposed to creating and maintaining a paper file at the station.

A. A Commission-Hosted Online Public File Will Serve the Public Interest

12. We agree with commenters who maintain that placing the public file online will improve the public's access to information and facilitate dialogue between broadcast stations and the communities they serve. As the Commission noted in the *FNPRM,* making public file information available through the Internet should facilitate public access and foster increased public participation in the licensing process. The information provided in the public file is beneficial to persons who wish to participate in a station's license renewal proceeding. For example, as the Public Interest, Public

Budget (''OMB'') approve any information collections. As required, the Commission published a notice in the **Federal Register** seeking comment on the projected burdens of the rules. *See* 73 FR 13462 (Mar. 13, 2008); 73 FR 30316 (May 27, 2008). Because of pending petitions for reconsideration requesting substantial revisions to the *2007 Report and Order* that would affect the projected burdens, the Commission did not formally transmit the information collection to OMB for its approval, choosing instead to address the petitions for reconsideration, and therefore the rules adopted in the *2007 Report and Order* never went into effect.

Airwaves Coalition (''PIPAC'') notes, when broadcasters fall short of their obligations or violate Commission rules, the public's ability to alert the Commission by filing complaints or petitions to deny the renewal of a station's broadcast license is essential, and the public file provides information necessary to file such complaints or petitions.

13. We also agree with commenters that access to the public files has been inconveniently (and unnecessarily) limited by current procedures. Currently, the public can access a station's public files only by visiting the main studio during regular business hours. Several commenters discussed the inconvenience of this limited access and identified problems they experienced in attempting to access stations' public files. Making the information available online will permit 24-hour access from any location, without requiring a visit to the station, thereby greatly increasing public access to information on how a station is meeting its public interest obligations. The Internet is an effective and low-cost method of maintaining contact with, and distributing information to, broadcast viewers. Indeed, given the considerable flexibility that stations have in locating their main studios and the fact that many members of a station's audience may be working during ''normal business hours''—the only time stations are obliged to make the file available—there seems little doubt that 24-hour Internet access would greatly improve the accessibility of these files. The public benefits of posting this information online, while difficult to quantify with exactitude, are unquestionably substantial.

14. We further conclude that it will be efficient for the public and ultimately less burdensome for stations to have their public files available in a centralized location. The Commission will, therefore, host the online public file. A Commission-hosted online public file will allow consumers to easily find the public files of all stations in their viewing area, making the Commission's Web site a one-stop shop for information about all broadcast television stations in a viewer's market and eliminating the need to access multiple stations' Web sites. As we further discuss below, a uniform organizational structure among all files will allow consumers to more easily navigate the public files of all stations of interest. The public will be able to review the online public file of any station, and quickly navigate to where each category of documents is found, because each station's online public file will be organized in the same format.

15. The Commission's hosting of the public file also addresses concerns expressed by many broadcasters about the burden of hosting files online themselves. The rules adopted in 2007 would have required stations to host their public files on their own Web sites. In petitions for reconsideration, two broadcast trade associations proposed that the Commission host the files instead, suggesting that such a solution would be less burdensome to licensees, who would not have to devote resources to creating and maintaining an online public file. They also contended this approach would be more efficient, since many public file items are already filed with the Commission. For instance, the Named State Broadcasters Associations estimated that the Commission's hosting of the files would save broadcasters more than $24 million in first-year costs, and almost $14 million in annual costs thereafter. We agree that having the Commission host stations' public file information will ultimately reduce costs for stations—compared to the existing local file requirements.

16. We agree with commenters who reject the argument that there is no public need that can be met by placing online the political file portion of the station's public inspection file. As noted by commenters, placing the political file online will enable candidates, as well as the public, journalists, educators, and the research community, to identify and investigate those sponsoring political advertisements. Under current rules, the political file must contain, among other things, all specific requests for broadcast time made by or on behalf of a candidate and the disposition of those requests. It must also contain information regarding other appearances by candidates (excluding those in certain news programming exempt from the equal opportunities provision), and information about issue advertising that ''communicates a message relating to any political matter of national importance.'' As noted by some commenters, political ad spending is rapidly increasing, and often the only way to track such expenditures is through stations' political files. We also agree with PIPAC's assertion that the disclosures included in the political file further the First Amendment's goal of an informed electorate that is able to evaluate the validity of messages and hold accountable the interests that disseminate political advocacy. As the Supreme Court stated in *Citizens United* v. *FEC,* ''transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages'' and that, ''[w]ith the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.'' We are also persuaded by commenters claiming that ''the public must have access to information about the messenger as well as the message to fully understand an ad's content.''

17. Campaigns and candidates will be among those who benefit from being able to obtain political file information online. Some industry comments argue that candidates will obtain only limited benefits and possibly experience detrimental effects from moving the political file online. Broadcasters argue that the existing process serves the candidates and the stations well, and there is no reason to believe that changing the process will benefit candidates or campaigns. Other broadcasters argue that it is more meaningful and efficient for a candidate's representatives to speak with a station's sales department on the phone or in person. According to these broadcasters, personal interactions would be lost if the political file were to be placed online, which would be frustrating and create inefficiencies for advertising buyers and station staff. We fail to see how the online availability of past political time purchases will discourage buyers from having contact with the station concerning current and future time buys or how this information's availability will interfere with ongoing relationships between the stations and buyers. The fact that buyers and candidates will have increased ease of access to relevant information should not preclude or hinder candidates or buyers from a continuing dialogue with stations as they purchase time. Although some stations may elect to continue to make information routinely available to candidates through personal interaction at the station during business hours, which we do not intend to discourage, we expect that candidates and their representatives will use the online political file to obtain information from source documents without filtering by station personnel and at any time of day. LUC Media, a candidate media buyer, argues that ''the only way that candidates can make sure that they receive the availabilities and prices that the law requires is to have access to stations' and cable television systems' political files.'' LUC Media claims that the political file is necessary because ''stations and cable television

systems have learned over the years that, if they can limit the information that candidates have about availabilities and rates, they can get candidates to overpay for the airtime that they buy.'' While LUC Media notes that this is not the practice of all stations, LUC Media routinely reviews stations' political files to ensure that they are providing candidates with equal opportunities, which is why ''the Commission requires that this information be available for public inspection.'' LUC argues that ''Internet access to those files will enable more candidates to become better informed about availabilities and pricing and, thus, demand that they receive the lowest unit charge for the time that they buy.'' Internet access will also eliminate the need for such buyers to travel to every station in a market to verify the contents of the public file, and to ask for help from station employees who have to take time away from their normal duties to accommodate such requests. We agree with LUC Media that placing the political file online will enhance the underlying purpose of the political file.

18. Some broadcasters argue that the Commission's focus in this proceeding has inappropriately changed from increasing broadcast dialogue with the public to enabling access to information about the stations for research and public advocacy groups with no ties to the broadcast stations' communities. We do not perceive the dichotomy these broadcasters suggest. While the public file is first and foremost a tool for community members, it is also a tool for the larger media policy community. Public advocacy groups, journalists, and researchers act in part as surrogates for the viewing public in evaluating and reporting on broadcast stations' performance. And as we stated in the *FNPRM,* easy access to public file information will assist the Commission, Congress, and researchers as they fashion public policy and recommendations relating to broadcasting and other media issues. For example, the Commission has said that ''the quarterly issues/programs lists will provide the public and the Commission with the information needed to monitor licensees' performance under this new regulatory scheme and thus permit us to evaluate the impact of our decision. Existing procedures such as citizen complaints and petitions to deny will continue to function as important tools in this regard.'' Academic analysis of such lists help the Commission monitor whether stations are meeting their responsibilities to their local community, and can provide information relevant to citizen complaints and petitions to deny. We recognize the efforts of public interest groups and academics to analyze publicly available information and educate the public about how their local stations are serving their communities, and believe that this work is an important aspect of educating viewers about their local television broadcast stations.

B. Broadcasters' Initial Costs To Comply Will Be Minimized and the Online Public File Will Ultimately Lead to Cost Savings

1. We Are Tailoring the Requirements To Minimize Costs of Moving the Public Files Online

19. We have adopted a variety of measures to minimize the efforts broadcasters must undertake to move their public files online. In addition, we have declined to adopt certain proposals in the *FNPRM* at this time, to further ensure that the costs of compliance with the new posting procedures are outweighed by the benefits of online disclosure.

20. First, we are minimizing burdens on stations by not requiring them to upload documents that are currently part of the public file but which are also filed in the Consolidated DataBase System (''CDBS'') or that the Commission already maintains on its own Web site. The Commission will import these documents into the online public file. Documents that fall in this category include station authorizations, applications and related materials, contour maps, ownership reports and related materials, EEO materials, The Public and Broadcasting manual, children's television programming reports, and Letters of Inquiry and other investigative information requests from the Commission, unless otherwise directed by the inquiry itself. Broadcasters will be responsible for uploading only those items not otherwise filed with the Commission or available on the Commission's Web site.

21. We recognize that stations' need to upload other items in the public file—including citizen agreements, certain EEO materials, issues/programs lists, children's television commercial limits records, donor lists for NCEs, local public notice announcements, time brokerage agreements, must-carry or retransmission consent elections, joint sales agreements, Class A continuing eligibility documentation, materials related to FCC investigations (other than investigative information requests from the Commission), and new political file materials—will entail some burden initially, inasmuch as stations will have to upload electronic versions or scan and upload paper versions of existing public files to the online public file. But not all stations will have all of these documents. For example, a station may not have time brokerage agreements, joint sales agreements, or citizen agreements, and may not be a Class A station. In that situation, there will be nothing in these categories for the station to upload. Moreover, many of the items in the public file will not require frequent updating. An LMA, for example, may have a term of 5 or more years and would not require any further action on the part of the station unless the agreement was amended or replaced. Joint sales agreements, citizen agreements, retransmission and must-carry consent elections similarly involve extended periods of time. In addition, as discussed below, stations will not be required to upload any of their existing political file documents. Rather, stations may upload documents to the political file component of the online public file only prospectively. We conclude that, for those public file items that stations do have to post, the transitional costs would involve only a one-time burden on broadcasters that, as further explained below, we find is outweighed by the significant benefits of transitioning the public file online.

22. Second, we minimize burdens on broadcasters by declining to adopt any new recordkeeping requirements. As discussed below, we are not adopting the proposal in the *FNPRM* to require stations to include sponsorship identification information in the online public files or to include shared services agreements that are not already required to be included in the local file. Instead, only information already required to be included in the local file will need to be posted online.

23. Third, we are not requiring stations to post files online in a particular format at this time. Thus, they will not need to undertake the costs of developing new electronic forms or of conforming their current recordkeeping practices to accommodate a Commission-designed form.

2. Broadcast Commenters Greatly Overstate the Costs Involved

24. Based upon the actions we are taking to minimize burdens, discussed above, and our analysis of some television stations' public files, we conclude that the broadcast commenters vastly overstate the burdens of moving their public files online.

25. The Commission is taking steps to ensure that the process of uploading

files to the online public file—both initially and prospectively—will be simple and efficient. We are developing the online public file system to permit broadcasters simply to drag and drop documents into the relevant folders of their online public file. As a result, although the initial upload of existing documents—that is, those documents maintained in the paper file before the effective date of our new rules—will impose some costs on stations, we do not believe these costs will be unduly burdensome, particularly compared to the resulting benefits.

26. Some broadcasters argue that uploading the existing public file will be unduly burdensome. They argue that we should implement the online public file requirement solely on a forward-looking basis, encompassing either all documents created after a certain date or all documents created after a station's next renewal. Joint TV Broadcasters notes that many materials must be retained until final action is taken on a station's next license renewal application, and a decision requiring all existing local files to be scanned and uploaded would require stations to upload eight years of information that may soon be obsolete. It argues that some of the materials, like the issues/programs lists, commercial limit certifications, and the political file, should be required to be uploaded to the online public file only on a going-forward basis.

27. We find that the one-time electronic upload or scanning and upload of existing documents is not unduly burdensome and that adoption of a grandfathering approach would be confusing to those seeking access to the information. Such an approach would necessitate the continued maintenance of a robust local file, which could diminish the benefits to the public of the online file with respect to improved public access to information, and would diminish the benefits to the stations of moving their files online. We agree with Common Frequency that scanning existing paper documents does not constitute an extraordinary burden, as it is a rote process that can be affordably outsourced if necessary. In addition, if the documents are currently maintained in electronic form, as some are likely to be, the one-time burden will be de minimis.

28. Our determination that the transition process will not be unduly burdensome is based in part on a review, in March 2012, of the public files of stations in the Baltimore DMA. Commenters provided little data based on actual station records. The Commission therefore determined that it was advisable to supplement the record with empirical data from a sample market. Baltimore was selected because its proximity to Commission headquarters in Washington, DC, and the relatively compact size of the Baltimore DMA allowed staff to visit stations there without great difficulty. Our review of the Baltimore DMA public files indicates that most stations will only need to upload a fraction of their existing public file to the online public file—or approximately 250 to 2200 pages, as reflected in the second column of the chart below. Columns three and four reflect what we believe the costs are likely to be for stations to upload this information. We estimate that stations that choose to scan and upload this information in-house can do so for $.10 per page,[2] while stations can outsource such work for approximately $.50 per page. Based on this assumed cost of $.10 to $.50 per page, we calculate a range of the average cost for a station to upload their existing public file in accordance with this Order, with the average cost per station ranging from approximately $80–$400 per station. We believe that this modest one-time expenditure (even if it were not offset by later costs savings as we believe it will be) is worth the benefits of providing the public with access to a station's existing public file.

	Public file pages to upload w/in 6 months [1]	In-house cost per page [1]	Outsourced cost per page	In-house total	Outsourced total
WBAL–TV	998	0.1	0.5	$99.80	$499.00
WMAR–TV	987	0	0	0.00	0.00
WJZ–TV	844	0.1	0.5	84.40	422.00
WNUV	251	0.1	0.5	25.10	125.50
WBFF	2094	0.1	0.5	209.40	1,047
WUTB	2126	0.1	0.5	212.60	1,063.00
WMPT	2180	0	0	0.00	0.00
WMPB	2180	0	0	0.00	0.00
Total	11660	.....	.....	631.30	3,156.50

29. We agree with commenters that, once they incur these modest costs, stations will realize savings by no longer having to keep a local file on a going-forward basis. We recognize that stations will be required to maintain and make publicly available a correspondence file with letters and emails from the public, but we agree with commenters that stations will nonetheless realize significant reductions in burdens by not having to maintain a more robust local file. Placing the information online will minimize disruptions in the daily operation of a station, and reduce the burdens placed on station staff that currently field phone calls and chaperone in-person requests to inspect the files.[3] When Commission staff sought to obtain the public files of the Baltimore stations, as well as those of five other stations around the country, stations dedicated staff resources to

[2] Under the Freedom of Information Act, the Commission is allowed to charge for our research and reproduction services under certain conditions. *See http://www.fcc.gov/guides/how-file-foia-request.* We have determined those costs to be $.10 per page. *See* Modification of the Freedom of Information Act Fee Schedule, D.A. 10–97 (Jan. 19, 2010). We believe this to be an accurate reflection of actual reproduction costs, and we expect that scanning costs would be equal to this or lower, because paper, ink, and fasteners are not required.

[3] Our current rules do not require stations to accommodate political file requests over the phone, because such a requirement could disrupt station operations. We expect that requiring stations to place the public files online will have a similar beneficial effect; reducing rather than expanding, disruptions to operations at the station as station personnel would no longer have to process requests for access to this information in person, as they are currently required to do. Instead of accommodating each candidate or their campaign representatives personally on a frequent basis, an online requirement will allow a station to upload the most up-to-date information periodically for all interested parties. As discussed below, however, we are requiring stations to maintain a back-up of the political file for use in the event the Commission's database becomes unavailable or disabled.

copying the files, and were in no case able to provide the copies on the same day as the request. Further, once broadcasters have completed the initial upload of documents in the existing public files, as specified herein, we do not believe that uploading public file documents on a going-forward basis to an online public file is likely to be any more burdensome than placing such documents into a paper file. Indeed, in many instances, using the online public file will be less burdensome, because uploading (or even scanning, then uploading) a file may be easier and more efficient than photocopying it, walking it to the local paper file, finding the appropriate folder and inserting it in the proper order.

30. The industry's arguments regarding the costs involved with uploading documents to the online public file focus on the political file, which they identify as the most active element of the public file. NAB states that two stations have estimated that the time involved in completing political ad buys will ''essentially double'' in an online environment, at a cost of $80,000 per station. Joint Broadcasters estimates that ''creating electronic versions of all political time requests'' and uploading such documents will take one half hour per record, which would amount to almost 16 hours per week per station during the political season, compared to the 2.5 hours a week that stations spend under the current paper filing system. We find unpersuasive the argument that the time required to assemble the online political file will double or quadruple. Instead of photocopying documents and placing them in a paper public file, stations will upload to the online public file documents already stored in electronic format or scan paper documents (a process akin to photocopying) and upload the electronic versions. One commenter notes that not all stations own a scanner, or a scanner of sufficient quality to make copies of documents adequate for uploading to the Commission's online public file. For stations that do not wish to make this minor investment, other business solutions are available, including creating documents electronically or outsourcing the scanning functions. Scanning costs may be higher on a per-page basis if outsourced, just as it would be more expensive per page to outsource the copying and filing of paper copies. Given that stations will be uploading fewer documents into the online public file than they currently place in their paper files, we expect that station costs going forward will be lower than under the existing requirements. Given that the requirement to drag and drop the files into our online public file will replace the requirement to photocopy and walk the documents to the local file, we expect that fulfilling this requirement will not take substantially more time and may take less time to accomplish. Broadcasters provide no specific support for their facially implausible assertion that creating electronic versions of political file requests and uploading them would take a half hour. Moreover, they fail to acknowledge that the time involved in uploading documents electronically should decrease substantially with time as station personnel become more accustomed to this process.[4]

31. We also disagree with the commenter who projects that the proposed online public file, and specifically the political file and sponsorship identification requirements, will require each station to hire one to three employees at an average cost of $30,000 to $140,000 per station per year. On the contrary, given that the requirement to upload the files will replace rather than add to the existing file requirements, we expect that stations will be able to assign these responsibilities to existing staff, rather than hire additional staff. We fail to see how this requirement could legitimately result in the need to hire three additional staff members, even in the heat of an election. Moreover, the commenters' estimated figures include the costs of complying with the *FNPRM's* proposed new public file requirement for sponsorship identification, which, as we discuss below, we are not adopting. Further, to the extent these figures include costs associated with the initial upload of the existing political file, they overestimate the burden on broadcasters because we do not require the existing political file to be uploaded.

32. We note that because the size of the political file appears to roughly correlate with a station's political advertising revenues, stations with little or no revenue will have little to no obligations under these rules, and stations with larger numbers of pages to upload will tend to have similarly large income associated with those pages. In addition, although candidate advertising must be sold at the lowest unit charge, issue advertisers are not entitled to reduced rates and therefore pay market rates for advertising on broadcast stations. When balanced against the revenues earned from political advertising—which brought broadcasters an estimated $2.29 billion in 2010 and are expected to bring in even more in 2012—the costs of complying with the online posting requirement seem even less significant. Indeed, political files reviewed by Commission staff, from markets across the country, generally reflect that stations receive political advertising revenues of thousands of dollars per page of political file that must be uploaded. We also agree with commenters who note that ad buyers, candidates, and the public must today undertake burdens to obtain information about the political file, including traveling from station to station to obtain political file information. Our collection of the Baltimore DMA public files required, in total, dozens of person-hours, driving back and forth to stations (first to request the copies and then to collect them), and copying costs that were estimated at close to $1,700 by the stations themselves. Our action today will substantially reduce or eliminate each of those burdens.

C. Application of Online Posting Rule to Specific Public File Components

1. Political File

33. We consider public access to stations' political files particularly important. Therefore, we will adopt the proposal in the *FNPRM* that political files be included in the online public file, but will exempt all stations not in the top 50 DMAs, and all stations in the top 50 DMAs that are not affiliated with the top four national television broadcast networks, from posting their political file documents online until July 1, 2014. Prior to this exemption expiring—by July 1, 2013—the Media Bureau will issue a Public Notice seeking comment on the impact of moving online the political files for these 200 stations, to enable us to consider whether any changes should be made before the requirement takes effect for the other stations. In addition, as discussed above, we will not require any stations to upload their existing political file; rather, they will be required to upload new political file content on a going-forward basis.

[4] As discussed further in Section III.C.1 below, stations are required to ''keep and permit public inspection of a complete and orderly record (political file) of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted.'' 47 CFR 73.1943. We note that political files that Commission staff reviewed frequently contained more information than is required by our rules. Stations that are concerned about the burdensomeness of placing their political file online on a going-forward basis may wish to review their political file retention practices.

34. We believe circumstances have changed to warrant reaching a different conclusion about posting the political file online than we reached in the *2007 Report and Order*. In the *2007 Report and Order,* the Commission excluded the political file from the requirement that stations post their public files on their Web sites. The Commission determined that the frequent requests for access by campaigns and the need for stations to update the file frequently during an election season made an online posting requirement inappropriate. The Commission also reasoned that political campaigns generally have greater resources than individual viewers and, therefore, access to the in-station political file would tend to be less burdensome for campaign organizations. Petitioners for reconsideration argued that such a decision focused exclusively on the interests of the candidates and broadcasters, and not on the public. In addition, as the Commission noted in the *FNPRM,* television stations now handle many political advertising transactions electronically, through emails and a variety of software applications. As a result, requiring stations to make this information publicly available online will impose far less of a burden under current circumstances than under previous conditions. We thus disagree with arguments that the Commission does not have a sufficient basis to reverse the decision of the *2007 Report and Order* to exclude the political file from the online requirement. Our understanding of how stations manage their political transactions and their traffic systems, technological advances that have occurred since the *2007 Report and Order,* and our decision to host and centralize the online public file support our revised approach. Below, moreover, we respond to specific arguments that we should exclude the political file from the online public file.

35. *Electronic Processes.* Some industry commenters argue that our understanding that stations now conduct political advertising transactions electronically is incorrect. They argue that for some candidates the purchasing process is not electronic, but done through a variety of means, including phone, fax, and in person. For political ad buys, the process can be multi-staged. They state that negotiations may result in many entries into the political file before an agreement to provide time is reached. After an agreement is reached, the actual times the advertisement is aired can still change if the spot is purchased on a preemptible basis. Advertising time sold on a preemptible basis means that the advertising spot may be preempted by another advertiser and re-scheduled for another time. In addition, NAB states that national advertising sales representatives communicate with the stations they represent using proprietary software that varies among companies and may not include information about classes of time or rates in the documents they generate, and therefore do not provide sufficient information to fulfill the political file documentation requirements. Thus, these parties argue, stations do not collect information in a uniform manner, and the Commission cannot assume that all of the information that must be in the public file will be included on one form. NAB goes on to explain that billing systems commonly used by stations generate a separate series of reports for each order. During the political season, advertisers generally order time on a weekly basis. A typical billing system will generate three documents for the political file relating to each order—one report showing the original order placed into the station's traffic system, another showing the exact times that spots ran, and a third showing the final charges paid by candidates for those spots. For each order, these reports occupy three to ten printed pages, and for very active advertisers, a weekly report may be much longer. Further, commenters argue that computerized traffic management systems used to sell and schedule television advertising time will not in any way facilitate compliance with an online political file requirement, as there are many different types of automated systems that collect, track, and process information in different ways.

36. Notwithstanding these arguments, broadcasters' record descriptions of how stations actually track advertising purchases and manage the scheduling of such transactions confirms our understanding that stations are capable of, and often do, include electronic processes in their assembly of the political file. While we recognize that there are still some portions of the sales process and political file assembly that are not fully automated, and that some stations use electronic means to a larger extent than others, our review of Baltimore political files confirms that many of the records that would be required to be in the public file originate as or are reduced to electronic files and would thus be relatively easy to upload in a universally readable format, such as .pdf. To the extent that a required document is not automatically converted to electronic form by the sales or invoice and reconciliation process, they can be easily scanned and uploaded instead of photocopied and placed in the paper file, as is the current practice.

37. Furthermore, we reject broadcasters' burden arguments that are based on the fact that existing electronic traffic management systems may not be programmed to allow stations to upload documents directly to a database. According to some broadcasters, each traffic management software system provider would have to program, test, and finalize an export function tailored to the Commission's servers, consuming ''hundreds of thousands of man hours,'' after which broadcasters would have to install this new software on their existing systems, and [t]aken together, these steps would stretch into years, and the costs would be significant.'' Under the rules we are adopting, broadcasters will not need to change the software in their traffic systems to post documents to our online public file, though they are free to do so if that is the approach they wish to take. Rather, stations will either need to save such files to widely available formats such as Microsoft Word (.doc) or rich text format (.rtf), or convert the files to portable document format (.pdf) , and then drag and drop those files to the Commission's online public file. We do not believe that either of these alternatives will impose appreciable increased costs on broadcasters as compared to current requirements.

38. *Increased Access to Lowest Unit Charge Information.* NAB expresses concern about the ''unintended but potentially very real marketplace distortions and consequences that could occur if market sensitive information is readily accessible'' to its competitors. It notes that, in addition to broadcasters, cable operators and DBS providers must also keep a political file, and requiring only broadcasters to place their political file online would ''place broadcasters at a disadvantage vis-à-vis their competitors.'' NAB argues that ''[b]roadcasters could see advertising revenues drop if competitors attempt to use the data in the file to undercut their rates. This disadvantage would directly harm the public,'' NAB continues, ''because, if advertising revenue drops due to disparate regulation, stations would not be able to expand service offerings, and may have to cut back on current offerings.'' Network Station Owners also express concern about making ''[t]his proprietary information * * * available to commercial as well as political advertisers, to other local stations, and to competing advertising

media such as cable operators, newspapers and web sites.'' It argues that because the political file contains ''information on the station's lowest rates on particular programs and rotations,'' placing the political file online will ''afford a significant intelligence advantage to one side in private commercial negotiations. Armed with political file information, the shrewd time buyer's ability to drive the hardest possible bargain would be greatly enhanced by data allowing him to estimate the station's bottom line. One poker player would, in effect, have had at least a partial glance at the other's hand.'' [5]

39. We find that placing this already-public information online will not cause significant market distortions. Furthermore, the benefits of placing the political file online are substantial, and we will not exclude it on the basis of unsubstantiated burden arguments. Broadcasters have failed to provide any evidence to support their claims of commercial harm. We note that several parties raised the claim of ''commercial harm'' in the final weeks prior to adoption of this item, but the filings contain little more than generalized and vague assertions. Most important, we are not requiring broadcasters to make any information publicly available that stations are not already required to make public. Broadcasters have been required to make political file information including rates charged for political advertising, available in some form since 1938, and anyone, including broadcasters' competitors and customers can currently access these data in the paper files. In addition, since 2002, Section 315(e) of the Act has specifically required that the political file include ''the rate charged for the broadcast time.'' Moreover, the public files of broadcasters' competitors have been available in paper form to television broadcasters and the public for years. Given the mutual, long-standing public availability of such documentation and the likely knowledge of this availability among major commercial and political buyers, we do not believe that the increased ease of access to broadcasters' public files will lead to significant distortions in the marketplace. Although we do not know the exact percentage of advertisers and competitors that seek review of information in stations' political files, we are aware they do so on a regular basis, as Commission staff frequently receives calls from stations asking whether or not they must provide such entities access to the political file. As staff has previously instructed in these situations, all members of the public—including advertisers and competitors—are entitled to access a stations' political files. To the extent it is economically beneficial for competitors, potential advertisers, or buyers who seek to represent advertisers, to access this data, they already have the ability to review the material at the stations. Buyers do, in fact, review the political file. We recognize that, because of their economic incentive, competitors and potential advertisers may be more likely to undertake the expense of visiting stations to review the current political files. We expect that having the files accessible online will encourage other members of the public to make use of the political files. Commenters have failed to show that an online posting requirement would alter in any meaningful way the economic incentive of these entities. Moreover, even if it had not been publicly available for decades, online posting of lowest unit charge information would not necessarily lead to marketplace distortions. While the political file lists the lowest unit charge that a candidate receives, it does not reveal significant information about the commercial transaction that established that lowest unit charge. Various factors unknown to another commercial buyer—including that the advertiser establishing the lowest unit charge bought a higher volume of ads, committed to a long-term advertising relationship, or other variables—can justify denying the lowest unit charge rate to a different commercial buyer under different circumstances. In addition, the fact that there are many variables (lengths, classes of time, and time periods) for any given lowest unit charge makes it harder for any potential purchaser to find a lowest unit charge that is comparable to the ad purchase it is seeking to make. These variables also make it difficult to compare the lowest unit charges of competing stations, as the stations may not sell the same classes of time. In the end, stations are in control of setting lowest unit rates, and have final determination of how low they are willing to set their commercial rates. Further, given that the statute expressly requires such information to be placed in the public file, exempting such rate information would be contrary to the statutory directive to make the political file publicly available.

40. *Effect on How Stations Sell Time.* NAB argues that online filing would necessitate changes in how stations sell political advertising time, because ''the variances in the ways in which stations manage political advertising sales and the political file'' would not be compatible with a ''standardization of stations' political file processes.'' These arguments seem to be based on a misunderstanding of our proposal in the *FNPRM.* As the Commission emphasized in the *FNPRM,* the online political file is meant to serve as a source of information to candidates, buyers, viewers, and others, but the actual purchase of advertising time and the receipt of equal time requests will continue to be handled by the station. We reiterate that we are merely

[5] One party also claims that online disclosure of a station's political file will result in an uncompensated government taking in violation of the Fifth Amendment. We disagree. Target Enterprises is a media buyer that claims to have ''buil[t] a proprietary computer statistical model and database'' to enable ''its clients to achieve the most effective media purchases during an election cycle.'' Target claims that an uncompensated taking will result if the details of political ad spending become available online in real-time because Target's ''protected business model and proprietary approach'' will be disclosed to the public and its competitors and thus ''cause the value of the company to be lost.'' We reject Target's takings claim on several grounds. The regulation at issue does not result in a ''physical taking'' because it does not deprive Target of any property right, much less result in a direct appropriation or physical invasion of private property; rather, it requires television broadcast stations to post online information that they already make publicly available at their stations. Indeed, television broadcast stations—not media buyers such as Target—are subject to the online requirement, and thus no direct appropriation or physical taking of Target's property can be shown. *See Loretto* v. *Teleprompter Manhattan CATV Corp.,* 458 U.S. 419 (1982) (to establish a physical taking requiring just compensation, a party must show a direct government appropriation or physical invasion of private property). We note that no broadcast station has raised a takings argument. Similarly, Target has failed to establish the factors required for demonstrating a regulatory taking. *See Penn Central Transportation Co.* v. *City of New York,* 438 U.S. 104 (1978) (identifying several factors for determining what constitutes a ''regulatory taking,'' including the economic impact of the regulation, the extent to which the regulation has interfered with distinct investment-backed expectations, and the character of the government action). Nothing in the Commission's regulations restricts Target's ability to use or keep confidential its computer models, database, or any other alleged ''trade secrets.'' Moreover, Target's claim involves the general health of its business rather than specific property or estimates as to the property's likely diminution of value. As the Supreme Court has explained, unilateral expectations and abstract needs are not sufficient to raise takings concerns. *Ruckelshaus* v. *Monsanto Co.,* 467 U.S. 986, 1005–1006 (1984). Further, the broadcasters subject to the online posting requirement operate in an industry that has long been regulated and thus this regulatory context undercuts the reasonableness of Target's purported expectations. *Concrete Pipe and Products of California, Inc.* v. *Construction Laborers Pension Trust for Southern California,* 508 U.S. 602, 645–646 (1993) (noting, in rejecting the claim of interference with reasonable investment backed expectations, that ''those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end'').

changing the form of disclosure to the public of information already required to be in the public file. We are making no change in the political advertising sales process. Rather, we expect stations to continue handling political ad sales in whatever way is most convenient to them.

41. *Substantive Political File Requirements.* We likewise are not persuaded by arguments that the rules regarding what material must be included in the political file are vague and that, therefore, the Commission should not adopt an online posting requirement. As discussed above, this proceeding simply modernizes the procedures television broadcasters use to inform the public about information they are already required to disclose. If any licensee is unsure about any aspect of our political file requirements, it may request clarification of our existing substantive disclosure rules. To respond to specific questions raised in this record, however, we offer the following guidance. The political file rule requires that licensees ''keep and permit public inspection of a complete and orderly record (political file) of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted.'' The same information, among other things, must be included with respect to issue advertising containing a message relating to a ''political matter of national importance.'' These issue ads will also need to be included in the online political file, just as they currently need to be included in the local political file. One commenter argues that it is unclear what ''requests'' includes. Although we do not think that term is unclear, we clarify that licensees are required to place in their political files any final orders by candidates for specific schedules of time or availabilities within a specific schedule of time—in other words, orders to buy particular schedules (including programs or dayparts), amounts of time (including spot or program lengths), and classes of time for particular days (such as preemptible spots, Monday-Friday rotations, runs of schedule or specific placements). We note that ''any final orders'' mean orders that station representatives reasonably believe to be a final, agreed-upon order. If the final order is later amended after being included in the on-line political file, a station can replace the previously final order with the amended final order, or may simply upload the amended final order. Licensees are not required to place in their political files general requests by candidates for advertising time stations have available to purchase, or rates for a general array of time.

42. In response to concerns that the term ''disposition'' is unclear, we note our rules define it as ''the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.'' We clarify that the ''disposition'' of the request does not include a record of the negotiations or back-and-forth discussions between the licensee and the candidate after the request is made. It does include the final, mutually agreed upon order of time, including: classes of time purchased; charges made; as well as any subsequent, relevant reconciliation information about the order, including the times spots actually aired and details such as any ''make goods'' provided for preempted time, and rebates or credits issued.

43. *Existing Political File.* Commenters argue that if we require stations to upload the existing political file, it will be unduly burdensome. Some broadcasters provide projected costs and burdens of placing the political file online. NAB estimates that just uploading the existing political files could take hundreds of hours per station. NAB supported its assertions about the burdens of uploading the existing political file by providing the estimated size of the political file in inches for six stations in six different television markets, ranging in size from 3,150 pages to 8,100 pages. For example, NAB noted that a political file in Burlington, Vermont measured 19.5 inches, which they estimated as equaling 4,388 pages. Free Press argues that such estimates are exaggerated. Free Press states that it visited all of the television stations in Burlington, Vermont, and was unable to find any political file that was as large as the files discussed by NAB. Further, their review found that each political file reviewed contained documents beyond the required two year retention period, illustrating the possibility that ''broadcasters may be mistakenly (and vastly) inflating the size of the political files they actually are required to maintain.'' NAB bases its projections on the largest political file it reported. While we believe that this burden projection is overstated, we recognize that the existing political file may contain the greatest number of pages for broadcasters to upload as they transition to an online public file. Our review of the public files in the Baltimore DMA indicates that the commercial stations' political files were made up, on average, of 1568 pages, and accounted for, on average, 30% of the stations' public files. This excludes letters and emails from the public, which will be retained in the local file. One station's political file was made up of 4079 pages, or almost 70% of its public file.

44. Departing from the proposal in the *FNPRM,* we do not require stations to post the contents of their existing political files to the Commission's online public file. Given the two-year retention period for the political file, broadcasters' investment in uploading existing political files would have a limited return for the public. Likewise, exempting the existing political file will only require broadcasters to continue to maintain a robust local file for a relatively short period. Because of the two-year retention period for the public file and the relatively large size of existing files, we conclude that exempting the existing political file from online posting is a reasonable means of reducing the initial burden of moving public files online.

45. *Small Market and Non-Affiliate Exemption.* Finally, we adopt in part a broadcaster request that we delay online posting of the political file for smaller stations. These commenters argue that we should allow all broadcasters to gain experience working with the online public file system before requiring that they maintain their political file online. As noted above, this proceeding is over a decade old, and we believe it is time to bring the accessibility of the entire public file into the 21st century in as expeditious a manner as is possible.

46. We are persuaded, however, that it is appropriate to allow certain stations additional time to begin uploading the political file. As discussed further below, because the contents of the political file are time-sensitive, stations must place records in the political file ''immediately absent unusual circumstances.'' We believe it is appropriate to require stations with a greater market reach to undertake this time-sensitive transition first, as they will be more likely to have dedicated resources to address any implementation issues that arise, if necessary. Therefore, we will temporarily exempt stations that are not affiliated with the top four national television broadcast networks (ABC, CBS, NBC and Fox) in the top 50 DMAs and all stations that serve markets below the top 50 DMAs, regardless of affiliation, from including their political file in their online public file for two years. We note that this exemption is permissive, not mandatory. If any station that falls within this exemption prefers instead to immediately

transition to the online political file, it is permitted to do so. This exemption will ease implementation for broadcasters during the initial transition to the online public file, while also giving the Commission time to ensure that the online public file system is implemented effectively.

47. We believe that exempting stations that are not affiliated with the top four networks (ABC, CBS, NBC and Fox) in the top 50 DMAs, and those stations in markets below the top 50 DMAs, creates an exemption threshold that is clear, easy to establish and implement, and not often subject to significant change. Other options for identifying the class of stations to exempt do not provide the certainty that this clear definition provides. For example, an exemption for the top four ranked stations in each market would create a threshold that is often subject to change, would be difficult to measure and administer, and would provide uncertainty to broadcasters, as they are not as able to predict or control ratings. The Commission has used a DMA and affiliation-based standard in other contexts, and we believe it is appropriate to use in this instance.

48. Moreover, while this exemption will ease the initial implementation for broadcasters, it will nonetheless provide the public with online access to the political files of stations garnering the vast majority of political advertising time and money. Stations affiliated with the top four broadcast networks often provide the highest-rated programming, and therefore the most-watched advertising, including a large proportion of political advertising. Based on numbers provided by Kantar Media, we find that these 11 percent of stations, which reach 65 percent of Americans, account for roughly 60 percent of the total television political advertising dollars spent in each major election cycle. Affiliated stations are also more likely to have dedicated IT resources to resolve issues that may arise with implementation of the online political file in the expeditious manner that will be necessary for the political file. Stations that will be exempt initially from the rule generally have smaller political files than the affiliates in the top 50 DMAs, and therefore the public will not be deprived of online access to substantial amounts of political file information during the limited exemption period. In our review of the political files of the Baltimore DMA, the political files of the stations that will be exempt averaged 247 pages, which is substantially smaller than the political files for the stations affiliated with the top four networks, which averaged 2104 pages. In addition, we believe that the approximately two years of experience that stations will gain by transitioning the rest of the online public file will help to ensure that they are prepared to upload the political file. We also believe that delayed implementation for stations with a smaller market reach will ensure that the Commission is able to target assistance to these stations, if necessary. Commission staff will gain experience with the process of assisting the smaller first wave of broadcasters transitioning to the online political file. This will enable staff to more efficiently assist the larger number of stations that will transition later, who may need enhanced support because of their more limited IT resources.

49. As part of our efforts to evaluate the effect of this transition, the Media Bureau will issue a Public Notice by July 1, 2013 seeking comment on the impact of these rules. This Public Notice will give commenters—including the initial group of stations to use the online political file, stations that have yet to transition, and members of the public that review the online political file—an opportunity to provide the Commission with information regarding the impact and utility of the online political file. The Public Notice will enable the Commission to consider whether any changes should be made before the requirement takes effect for the other stations.

50. As discussed above, we do not believe online posting of the public file, including prospective posting of the political file, will impose an unreasonable burden on any television broadcaster. Nevertheless, if licensees not covered by the two-year exemption believe filing new political file materials online will impose an undue hardship, they may seek a waiver of this requirement. Stations seeking waivers should provide the Commission with information documenting the economic hardship the station would incur in complying with this requirement, its technical inability to do so or such other reasons as would warrant waiver under our general waiver standards.

51. *Authority.* No commenter challenged the Commission's authority to require online posting of the public file generally, but NAB suggests that the Commission lacks authority to require the placement of station political files online, and that we therefore must carve out the political file from the rest of the public file. In supplemental comments, NAB argues that in the Bipartisan Campaign Reform Act of 2002 (''BCRA''), Congress expressly required that the IRS and FEC make certain election-related records available online, but did not do so for the items required to be placed in broadcasters' political files. They assert that ''the clear implication is that Congress did not intend for broadcasters to be subject to an obligation to place their political files online and thus, the FCC lacks authority to impose such a requirement absent further legislative action.'' NAB further argues that ''[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.''

52. We find NAB's argument unpersuasive. NAB overlooks relevant facts relating to the adoption of BCRA. First, in adopting the political file retention requirements of Section 315(e) of the Communications Act as part of BCRA, Congress explicitly required that ''a licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time'' and that ''[t]he information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.'' In doing this, Congress essentially codified the existing political file regulations as reflected in Section 73.1943 of our rules at the time, and placed no new restriction on the Commission's discretion to implement the public-access policy. That is particularly significant because, at the time of BCRA's passage, the Commission had tentatively concluded in this very proceeding that stations should place their public inspection files—including their political files—online. Congress was presumably aware that moving the political file online was actively being considered by the Commission, and expressed no intent to prevent such updating of the rules. Congress instead placed no restriction in BCRA on how the Commission may direct stations to make the political file ''available for public inspection.'' Because the statute is silent on the question of how stations should make the political file ''available for public inspection,'' the Commission, as the expert agency required to implement the Communications Act's provisions, has discretion in determining how to do so, provided that the Commission's decision ''is based on a permissible construction of the statute.'' Given this context, we do not believe that ''available for public inspection'' equates to ''available only in paper format and not online,'' as NAB asserts. We instead believe that this

requirement of availability for public inspection allows us to require that such records be made available for public inspection online, particularly given the ubiquity and general expectation of electronic access to records today.

53. NAB also argues that ''[i]t is apparent that Congress intended the FEC to be the central repository of campaign information.'' From this, they argue that requiring the political file to be placed online would constitute ''duplicative disclosure.'' This argument overlooks the explicit requirement in Section 315(e) that stations ''maintain, and make available for public inspection, a complete record of a request to purchase broadcast time.'' NAB seems to be arguing that the statute, rather than our proposed regulation, is unnecessary and duplicative. The Commission ''must give effect to the unambiguously expressed intent of Congress.'' Here, that unambiguous intent is that the Commission require stations to make the contents of the political file, as outlined in the statute, ''available for public inspection.'' Both the existing requirement, and the proposed online update, give effect to the expressed Congressional intent. We note as well that NAB's arguments regarding the Commission's authority are contradictory—in the first argument, NAB wants to read BCRA's lack of language concerning an online file strictly, and in the second, it wants to ignore the political file statutory provision entirely. We conclude that neither reading is correct. NAB also quotes the FCC's comments in an FEC proceeding in 2002, which stated that the FCC's creation of an online database to comply with BCRA ''could be extraordinarily complex and will require the expenditure of substantial resources in terms of time, money and personnel.'' NAB goes on to say that ''[t]he online posting burdens that the FEC proposed to impose on the FCC ten years ago and that caused the FCC to express concern are different from those the agency proposes to impose on television stations today. But the issues here about the burdens that would be imposed on stations by the FCC's online file proposals ''in terms of time, money and personnel'' are similarly entitled to respect and weight.'' As discussed in detail in the text, we have afforded considerable respect and weight to broadcasters' assertions about the burdens involved with posting their public files online, and have adopted a number of measures intended to reduce those burdens without sacrificing the goals of this proceeding.

54. Furthermore, the information filed with the FCC and the FEC is substantially distinct and intended for different purposes. The FEC was established by Congress to regulate federal elections, and FEC reporting requirements are limited to federal elections. The FCC's political file, by comparison, requires disclosure of information regarding all elective offices, including federal, state and local. The FCC's broadcast political file must be made ''available for public inspection'' in part to notify candidates of information pertaining to transactions by an opponent. This notification is necessary in order to assess candidates' equal opportunities rights under Section 315 corresponding to an opponent's purchases of ad time. The FEC does not collect any of the specific data that would be useful to candidates in connection with their equal opportunities rights, all of which appear in the political file, including: ''(A) Whether the request to purchase broadcast time is accepted or rejected by the licensee; (B) the rate charged for the broadcast time; (C) the date and time on which the communication is aired; (D) the class of time that is purchased.'' Instead, the spending data collected by the FEC requires candidates to disclose the aggregate amount expended during the period of time covered by the disclosure to a particular payee, the mailing address of the payee, the purpose of the transaction(s), the candidate's name and federal office sought, and the date of disbursement. Typically, candidates make their television advertising purchases through media buyers. Thus, under the FEC's aggregate disclosure requirements, a candidate would only need to disclose the funds provided to a media buyer without disclosing how the media buyer allocated such funding—whether it goes to television, radio or print media, let alone how much was paid to each television station. There is no requirement to identify the specific components of the ad-sales transactions that broadcasters include in their political files, making the FEC disclosures nearly useless for a candidate seeking equal opportunities or learning what rates their opponents paid or the schedule of time purchased, and useless to members of the public who are seeking information about the purchasers of specific advertisements being carried on their local television station.

55. *Immediacy.* Consistent with our current political file rules, we adopt the *FNPRM*'s tentative conclusion that stations must upload records to their online political file ''immediately absent unusual circumstances.'' Whether maintained at the station or online, the contents of the political file are time-sensitive. For example, a candidate has only seven days from the date of his or her opponent's appearance to request equal opportunities for an appearance.

56. We do not believe that complying with the longstanding immediacy requirement will be any more difficult when uploading to an online public file than when placing paper in a local file; in fact, using the online public file should often be quicker and more efficient. Some commenters claim that uploading the political file to the online public file immediately absent unusual circumstances is either extremely burdensome or technically impossible, with no public benefit. These commenters state that political advertising buys are fluid and often made at the last minute. They also point out that the final documentation indicating when spots are aired and how much is charged for them is typically generated only on a monthly basis. They note that for this reason, the Commission has advised that rather than having to generate special documents, stations should provide the name of a contact person who can provide parties reviewing the political file with the times specific spots aired. NAB argues that if stations were required to update the online political file to reflect the times that spots aired on a daily basis, that could entail filing more than 100 pages per day of traffic reports in addition to the materials already required to be in the political file. Other commenters argue that moving the political file online will not lessen disruptions to station operations, because the delayed final disposition information about when a spot was aired is information that candidates are interested in obtaining from the station, and stations will still need to field daily in-person inquiries from buyers seeking this information.

57. These arguments generally suggest that online filing would involve a change to existing substantive requirements for assembling the public file. Under our existing rules, however, the political file must include all requests for broadcast time made by candidates, the final disposition of that request, and the charges made. The *FNPRM* did not propose to change these record-keeping requirements, and we do not do so.[6] We understand that stations

[6] We are not persuaded by alternative proposals, one by News Corporation and another by a coalition of broadcast station groups, to adopt additional record-keeping requirements for stations with

generally place initial requests and the final order agreed to between the candidate and the station into the political file immediately, consistent with our rules. We also understand that stations do not routinely place documentation relating to reconciliation information—including the times spots actually aired and details such as any make goods for preempted time, rebates, or credits issued—in the political file on a daily basis. Stations instead make station personnel available to answer questions about final reconciliation in person, by email, or over the phone, and place written documentation about the final disposition in the file at a later date consistent with business practices—usually when final billing is compiled for the purchaser on a monthly basis. This practice is permitted. As the Commission stated in the *Political Rules Reconsideration* decision, ''stations need not be required to employ extraordinary efforts to place immediately in the political file the exact time that candidate spots aired * * *. [I]t will be sufficient to provide information concerning the spots and program times that were ordered by the candidate, with a notation that the station will, upon request, provide immediate assistance and access to the station logs or other definitive information concerning actual air time.'' We are not changing this precedent or practice. We are merely requiring that the materials that stations currently copy and place in their local files on a daily basis now be uploaded to the online public file on a daily basis, and that other information be uploaded consistent with existing business practices as previously approved under Commission precedent. In addition to making this information available online, stations are free to continue making this information available over the phone to candidates and their representatives, if that is their preferred business practice, and as long as that courtesy is extended to all candidates and their representatives. Modernizing public inspection procedures for material in the public file will not increase stations' costs of communicating information that is not yet in the public file.

58. Finally, some commenters argue that the existing political file system works adequately for stations and candidates, and that it is unreasonable to make the political file available immediately online for the benefit of researchers and other members of the public.[7] Network Station Owners assert that the interests of researchers, scholars and citizens in having access to information about political spending ''is not immediate and can be satisfied by visiting the station either during or after the election campaign.'' These commenters seem to be arguing that the needs of stations and candidates are singularly important, and that if these constituencies are not seeking changes to how the political file is maintained, then no changes are warranted. We disagree. First, as LUC Media points out, candidates will benefit from real-time posting of the political file. Supporting that view, the record indicates that the online political file will be used by candidates, their representatives, and the general public. Second, as discussed above, the statute does not prioritize any potential users of the political file; it broadly mandates that the materials be made ''available for public inspection * * * as soon as possible,'' which the Commission has long interpreted to mean available to all members of the public ''immediately absent unusual circumstances.'' The Named State Broadcasters Association expresses concern that ''public advocacy groups and the Commission will play 'stop watch' roulette if the political files were to go online.'' They state that the base fine for political file rule violations is $9,000 and that ''the FCC will have a strong incentive to find at least technical shortcomings in every television station's efforts to comply with the mechanics of a new online political file requirement,'' potentially exposing them to large fines ''notwithstanding the good faith efforts of staff-constrained broadcasters.'' We reject this reasoning. First, if such an enforcement incentive exists, it would exist now with the existing public file rule. Second, as discussed throughout this proceeding, our aim in making the public file available online is to make it more accessible to the public. Commenters' unsupported speculation about possible arbitrary enforcement provides no basis for maintaining the obsolete paper filing system. Moreover, we reject the Named State Broadcasters Association's argument that the base fine for public and political file violations'' should be lowered, an issue that is beyond the scope of this proceeding.

59. *Orderliness.* The Commission will design the online public file with an organizational structure that will ensure that the contents of the file, including the political file components, are orderly and easily uploaded and downloaded. The Commission's rules require licensees to keep ''a complete and orderly'' political file. The Commission stated in the *FNPRM* that it expected licensees to upload any political file information to the online file in an organized manner so that the political file does not become difficult to navigate due to the sheer number of filings. For an online political file to be useful, the Commission acknowledged, candidates and members of the public must be able easily to find information that they seek. The Commission asked whether it should create federal, state, and local subfolders for each station's political file, and whether it should allow stations to create additional subfolders within the political file.

60. NAB recognizes that there are efficiencies in the Commission creating some organizational categories for stations to use, and argues that ''to the extent that the Commission can do this in a timely and accurate manner, for both the general and primary elections for every race in the country where

respect to the political file. The proposal initially advanced by the coalition of broadcast station groups was that we not require stations to make their entire political files available online, but rather require online posting—on either the Commission's or the station's Web site, at the station's election—certain aggregate data concerning candidate purchases of advertising time, with weekly or monthly updates. An expanded coalition later advanced a revised proposal that would require stations to upload certain aggregate data concerning candidate purchases of advertising time, with updates daily, every second day, or weekly. News Corporation, on the other hand, submitted a proposal that would provide stations with the option of either placing their political files online or putting summary information (but not individual rates) in the online public file, while requiring stations to continue to maintain a paper file at the station that includes the rate information. While we appreciate the efforts of these parties to develop alternatives, we believe that these options will deprive the public of the benefits of immediate online access to all the information in the political file. These suggested approaches would impose a new substantive public file reporting obligation on stations, which would be contrary to our goal of limiting the burdens on broadcasters. Furthermore, our political file disclosure requirements take into account a candidate's equal access opportunities afforded under the statute. Under our rules, these rights exist for only 7 days; therefore, to be of value in this regard stations must post political file information immediately. The proposals requiring stations to post information every other day during the equal opportunity period (or even every day in the week before an election), would have limited value to candidates seeking to exercise their equal opportunities rights.

[7] Joint TV Broadcasters argued that ''even PIPAC, the entity urging the FCC to require stations to post their political files online has recognized that the political file can change daily during the election season and has suggested that the online posting requirement 'could include provisions for a reasonable delay in posting updated information.' '' They contend this supports their conclusion that it would be difficult for stations to upload this information ''in real time.'' The commenter fails to note that with respect to burdens, PIPAC actually stated its belief that ''placing this information online will reduce the burden on broadcasters that often receive multiple daily in-person requests to access this information during an election season.'' In their comments, PIPAC ''strongly supports'' the public file proposal discussed in the *FNPRM.*

candidates and issue advertisers may purchase advertising on a local TV station, NAB agrees that it would be desirable.'' We agree with NAB that it would be desirable and less burdensome on broadcasters for the Commission to create specific organizational subfolders, not only for candidate ad buys, but also for issue ads that relate to a political matter of national importance.

61. NAB also argues that the Commission should continue its policy of allowing broadcasters to manage their political file in a manner consistent with their particular operational and sales procedures. It expressed concern that if the Commission creates a rigid standardized organizational structure, they will have to redesign their traffic management systems, which would expand the burdens on broadcasters by interfering with systems that stations use and that are tailored to their own circumstances. NAB argues that the Commission should provide broadcasters with the flexibility to create their own subfolders and ''subcategories'' in order to further organize the data, and recommends that the Commission consider employing the services of a third-party Web-based file hosting service such as Dropbox. To facilitate broadcasters' use of the online file, we will create and propagate subfolders for candidates and will provide stations with the ability to create additional subfolders and subcategories in compliance with their own practices. We also agree with NAB that the use of hosting services providing a mechanism to allow stations to drag and drop files and folders to the online public file will allow for greater efficiencies. We delegate to staff the authority to incorporate such efficiencies, and to cooperate with industry as it develops specifications to enable such efficiencies and to incorporate them in the online system, to the extent the staff concludes that such approaches are workable and effective. We also delegate to staff the authority to design, add to, or adjust the features of the online public file, as needed, to increase its ease of use.

2. Letters From the Public

62. Responding to commenters, we exempt letters and emails from the public from the online public file, instead requiring that such material be maintained at the station in a correspondence file. In the *FNPRM,* the Commission proposed that letters and emails from the public, which now are required to be included in the local file, should not be incorporated in the online public file, but instead continue to be retained at the station for public viewing in a paper file or an electronic database at the station's main studio. The Commission tentatively agreed with reconsideration petitioners that privacy and burden concerns were significant enough to merit excluding these documents from the online public file, and sought comment on its findings.[8] Alternatively, the Commission asked whether it should allow or require stations to redact personally identifiable information before posting letters and emails online. Some commenters, broadcasters and public interest advocates agree that letters and emails from the public should not be placed online due to privacy concerns and the burdens of review and redaction that such concerns would necessitate. Some broadcasters believe that stations should maintain a correspondence file available locally at the station, while others think we should eliminate the requirement entirely. Common Frequency argues that privacy concerns are exaggerated, since it is common for members of the public to comment on publicly available Web sites.

63. We are concerned that requiring correspondence to be placed in the online public file may result in violations of the Children's Online Privacy Protection Act (COPPA), which prohibits posting children's personally identifiable information online. Commenters agree with our privacy concerns. Our review of the public files in the Baltimore DMA indicates that letters and emails from the public can account for up to one third of a station's public file. Thus, requiring stations to review these documents for compliance with COPPA before uploading them to the online public file could pose a burden, which our decision avoids. Therefore, we will not require stations to post this information in the online public file.

64. At the same time, we do not believe that the requirement to retain correspondence from the public should be eliminated entirely. Letters and emails are required to be made available to the public under our rules, and this proceeding is about updating the accessibility of the public file, not about changing its underlying requirements. We will require stations to maintain in a paper file, or electronically on a computer located at the main studio, a publicly available correspondence file at the station. As currently required, this file will 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, such as a defamatory or obscene letter. We also note that NCE commenters have requested that we clarify that noncommercial educational stations are not required to retain letters and emails in their public inspection files. This request for clarification stems from an inadvertent error in the draft rules published in the *FNPRM.* We confirm that NCE stations are not required to retain letters and emails from the public, and note that the rule changes reflect this. We emphasize that we are not imposing a new requirement here, but merely retaining the existing requirement for retaining correspondence consistent with our rules.

65. The *FNPRM* also sought comment on a proposal by PIPAC to require stations to report quarterly on how many letters they have received from the public. PIPAC was the only supporter of this proposal. Another commenter noted that such reporting would be burdensome for broadcasters, some of whom receive thousands of pieces of viewer correspondence in a year. We are not persuaded that a mere count of letters received would be of substantial value to the public or the Commission. We thus conclude based on the current record that the burdens of tabulating and reporting on such correspondence cannot be justified, and we do not require it.

66. The Commission also sought comment on whether stations should have to retain comments left by the public on social media Web sites, like Facebook, and tentatively concluded that such information should not be required to be maintained in the correspondence file. Those who addressed this issue agree with our tentative conclusion that, because social media posts are already accessible to the public, the burden of requiring stations to place such material in a correspondence file would outweigh any benefit. We adopt this assessment, and will not require stations to retain social media messages in their correspondence file.

67. Common Frequency suggests that email comments to the station can be standardized for all stations through a comment form on the Commission-

[8] The Commission also sought comment about whether other public file information raises similar privacy concerns. We received very little input on this issue, and will not make any other privacy-based exemptions to the online public file. Our Privacy Threshold Analysis (''PTA'') of the online files indicates that the files to be posted may contain personally identifiable information (''PII''). Consequently, the Commission will be preparing a Privacy Impact Analysis (''PIA'') and a Privacy Act system of records notice (''SORN'') to govern the handling of PII in the station files.

hosted public file Web site, and all commenters could be directed to this form. We decline to adopt this requirement. We do not believe that the Commission is the proper forum to shape the dialogue between a local station and its viewers. Rather, we seek to encourage direct communication between the station and its viewers. As discussed below, the online public file will contain contact information for each station. We encourage members of the public to relay their concerns directly to the station.

3. Other Components of the Online Public File

68. *Contour maps.* We adopt the tentative conclusion that the contour maps available on the Commission's Web site are sufficient for the online public file. Our rules require that the public file contain ''[a] copy of any service contour maps submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location.'' In the *FNPRM,* the Commission noted that maps showing stations' service contours are available on the Commission's Web site, and are derived from information provided by stations in CDBS. The Commission tentatively concluded that these contour maps available on the Commission's Web site are sufficient for the online public file as they provide the necessary information regarding a station's service contours. Only one commenter discussed this issue, agreeing with the Commission that these contour maps are sufficient. We ask that stations review these maps and contact the Media Bureau if they believe they contain any inaccuracies.

69. *Main Studio Information.* We will adopt the proposal in the *FNPRM* that we require 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. Given that the correspondence file will still be publicly available at the station, along with the existing political file (until its retention period expires in two years), and because we seek to encourage an open dialogue between broadcasters and the viewing public, we believe this information is necessary to assist the public. Stations with a main studio located outside of their community of license should list the location of the correspondence file and existing political file, and the required local or toll free number. Joint TV Broadcasters argues that if access to the public file is to be facilitated by means of online posting, the justification for government regulation of a station's main studio location, at a minimum, erodes substantially. We disagree with this assertion, which is in any event beyond the scope of this proceeding. The Commission has previously stated that a main studio is necessary to maintain reasonable accessibility of station facilities, personnel, and information to members of the station's community of license, which enables the residents of the community to monitor a station's performance, encourages a continuing dialogue between the station and its community, and integrates a station into the activities of the community in order to be more responsive to local community needs in its programming. Although as a result of our action today most required information about the station will be available online, the other benefits cited here, as well as access to the elements of the public file that will not be posted online, continue to support maintenance of a local main studio.

70. *The Public and Broadcasting manual.* We adopt the tentative conclusion that television stations will no longer be responsible for making available ''The Public and Broadcasting'' manual in their public files. We received no comment on this issue. As discussed in the *FNPRM,* the Commission will make this manual prominently available on the Commission-hosted online public file Web site once it is created. The staff is directed to ensure that this manual is updated to reflect the online public file requirements we adopt here.

71. *Issues/programs lists.* We adopt the proposal requiring stations to post their issues/programs lists to the online public file until the Commission adopts changes to this requirement. Broadcasters' public files currently must include issues/programs lists, which are lists of programs that have provided the stations' most significant treatment of community issues during the preceding quarter. The Commission stated in the *FNPRM* that it planned to expeditiously seek comment in a new proceeding to investigate replacing the issues/programs list with a standardized disclosure form, which it did last November in a *Notice of Inquiry.*

72. In that *Notice of Inquiry,* the Commission noted that it remains dedicated to addressing the problem of the lack of access to consistent and uniform information about television broadcasters' programming. Despite the shortcomings of the current state of the issues/programs lists, however, for now this is the best source of information the public has when investigating how a broadcaster's programming is meeting the community's needs and interests. A group of stations commenting as Four Commercial and NCE Licensees argues that the public has minimal interest in viewing this information, and until there is a standardized reporting form, issues/programs lists should not be placed online because they are voluminous and might include program guides that may not be easily uploaded. We disagree that the public has minimal interest in viewing this information. Public advocacy commenters PIPAC and Common Frequency point out that issues/programs lists are the only requirement that broadcasters have to disclose how they are providing community-responsive programming, and agree with the Commission that these lists should be posted to the online public file on a quarterly basis until the Commission implements a new standardized form. When creating the issues/programs list requirement, the Commission declared that one of a broadcaster's fundamental public interest obligations is to air programming responsive to the needs and interests of its community of license, and described the issues/programs list as ''[t]he most significant source of issue-responsive information under the new regulatory scheme.'' Moreover, the list is a significant source of information for any initial investigation by the public or the Commission when renewal of the station's license is at issue. Because of the importance of the issues/programs lists, we conclude that any burden imposed upon broadcasters to upload such information is justified, and find that the lists must be available to the public in the online public file.

73. *FCC investigations and complaints.* Our rules currently require that stations retain in the public file ''material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC'' of which the station is aware. The Commission sought comment in the *FNPRM* on whether the Commission should post published sanctions, including forfeiture orders, notices of violation, notices of apparent liability, and citations, in a station's online public file. The Commission also asked whether licensees should be required to upload their responses, if any, to such Commission actions. The Commission noted that this is the sort of information that the public would want to find in reviewing a licensee's public file, that this is a natural extension of the requirement to retain Commission

correspondence, and that parties could seek confidential treatment of particular information in the filings, if necessary. Common Frequency argues that the Commission should require broadcasters to post all materials relating to complaints, petitions, and Commission orders, because the public has a right to know how a broadcaster is conducting its business.

74. The public is entitled to review information regarding Commission investigations and complaints and we consider the scope of the disclosure rule for this material to be quite broad, although we also recognize that premature publication can hamper an investigation and that privacy concerns counsel some limitations on the online posting of some of this information. We conclude that, subject to any disclosure limitation included in a Commission inquiry itself or directed by the staff, the online public file must include Letters of Inquiry (''LOI''), any supplements thereto, and any other correspondence from the Commission commencing an investigation, materials related to such inquiries, licensee responses to these Commission inquiries, and any documents—including Commission orders—terminating or concluding the investigation or imposing penalties as a result of the investigation. We agree that public access to this type of information concerning a station—information that could be key to a full understanding of a station's performance of its duties as a licensee—is important and conclude that it must be placed in a station's online public file. This material is relevant to any member of the public that wishes to participate in a station's license renewal process or to otherwise review and evaluate the service a station is providing to its community of license. We will therefore adopt the tentative conclusion in the *FNPRM* that stations' online public files should contain all material relating to a Commission investigation. Unless directed to the contrary by the Commission (in an LOI or otherwise), stations will be responsible for uploading any materials related to a Commission investigation or inquiry that they generate or possess (such as responses to LOIs and relevant documents related to an investigation). To reduce burdens on stations, the Commission, as it deems appropriate, will post to the online public file any material that it originates relating to an investigation, such as LOIs and other investigative requests. The Commission will also post to the online public file any complaint or complaints that it possesses and that underlie an investigation, if doing so is feasible, will not interfere with or obstruct an investigation and disclosure is consistent with any privacy concerns that publication might raise. When there are circumstances in investigatory and enforcement contexts that would weigh against the disclosure of Commission investigations and related materials, the Commission or the staff may inform a licensee that a Letter of Inquiry or request for information or other material related to a particular investigation need not be placed in the public file or uploaded to the online public file. In the *FNPRM,* the Commission acknowledged concerns expressed in reconsideration petitions about posting to the online public file any material that is the subject of an indecency investigation or complaint, and tentatively concluded that such concerns were unfounded because such material is relevant to the renewal process and the Commission already posts information relating to indecency investigations, such as Notices of Apparent Liability and Forfeiture Orders, on its Web site. As is the case today, stations filing responsive materials subject to a confidentiality request may place copies of their filings into the online database with the confidential material redacted.

75. With respect to complaints that have not prompted an LOI or other investigative request, whether filed with the Commission or submitted only to the station, we believe local retention in the station's correspondence file is appropriate. We conclude, as a general matter, that privacy concerns weigh against routine online posting of these complaints. The Commission or relevant Bureaus on delegated authority, however, may expressly direct a licensee to post such complaints—ones not related to any Commission investigation or inquiry—to the online public file, or it may do so itself, if circumstances warrant.

76. A few commenters argued that the Commission should not require broadcasters to include information about erroneous or meritless allegations in the online public file. They argue that these claims may be unsubstantiated, and that persons with interests adverse to a broadcaster would have an incentive to file false or irrelevant complaints to establish a record tarnishing the broadcaster's character that could be used against it in the license renewal process, and that the increased accessibility to such false claims will increase such incentives. As discussed above, we are not requiring stations to include complaints that are not the subject of a Commission investigation in their online public files, though they are required to include them in their local correspondence files unless the Commission specifies otherwise. We believe that commenters' concern about erroneous or meritless allegations is adequately addressed by allowing stations to include their responses to such complaints in their correspondence files. As discussed above, stations are required to include in their public files responses to Commission investigations, unless directed otherwise in the LOI. As the Commission and the courts are the final arbiters of whether allegations are meritorious, we will not allow individual stations to decide whether particular investigations and complaints against them should be kept out of the public file.

77. *EEO and Children's Requirements.* Under the Commission's equal employment opportunity (''EEO'') rules, all broadcast stations that are required to create an EEO public file report are also required to place their most recent annual report in their public file and post a link to the report on their Web site, if they have a Web site. This requirement was established in order to facilitate meaningful public input, as the public has a ''right to participate in the process of monitoring and enforcing our EEO Rule, which directly impacts them.'' We will continue to require that stations make their EEO materials available on their Web sites, if they have one. In an effort to reduce burdens on broadcasters, however, we will permit stations to 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.

78. Similarly, in light of our decision in this Order to require stations with Web sites to provide a link to the online public file on their homepage, we will not require that stations with Web sites also post copies of their Children's Television Programming Reports (FCC Form 398) on their Web sites. In the *Further Notice of Proposed Rulemaking* in MM Docket No. 00–44, the FCC sought comment on whether broadcasters should be required to provide their completed Form 398s on their own Web sites. Members of the public interested in viewing a station's Form 398 will be able to locate that filing from the online public file and, therefore, we do not believe it is necessary to require stations to post the forms on their own Web sites.

79. *Existing Public File Sponsorship Identification Requirements.* Although, as discussed below, we do not impose new sponsorship identification reporting requirements, we also do not exempt existing public file requirements

regarding sponsorship identification from the online posting requirement. Specifically, we decline the request by the National Religious Broadcasters (''NRB'') to exempt from the online public file the disclosure of material required in Section 73.1212(e) of our rules—namely, where ''material broadcast is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter,'' stations must disclose ''a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group, or other entity.'' We note that the rule also states that ''[i]f the broadcast is originated by a network, the list may, instead, be retained at the headquarters office of the network or at the location where the originating station maintains its public inspection file.'' In addition, Section 315(e) of the Act, added by BCRA, requires that with respect to messages relating to any ''political matter of national importance,'' the political file must contain ''the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.'' This information must be included in the political file, and therefore must be posted to the online file along with other political file information Requiring that this information be included in the online public file should impose little burden on broadcasters, as this information is already being maintained in the local file.

80. In addition, we reject NRB's argument that making such lists available via the Internet will violate citizens' First Amendment rights to enjoy a level of privacy and anonymity regarding their political, social, moral, and religious values and beliefs, and associations. NRB argues that this will have a chilling effect on citizens' willingness to participate in political campaigns. PIPAC responds that making such already-public records available via the Internet does not change the substance of the existing retention requirement. We agree. In addition, we find NRB's argument that this disclosure will chill citizens' speech overstated, as the disclosure requirement in Section 73.1212(e) of our rules applies to executives and board members of sponsoring organizations; it does not relate to individuals' campaign contributions or other political activities. We note also that the FEC requires candidates committees to report to the FEC the identity of individuals who contribute more than $200 to a candidate's campaign. The identity includes the individual's name, mailing address and occupation, as well as the name of his or her employer. We also agree with PIPAC that courts, in evaluating First Amendment challenges, have embraced disclosure of sponsors of political advertisements as promoting speech and discussion, not chilling it. As the Supreme Court stated in *Citizens United* v. *FEC,* ''transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages'' and that ''[w]ith the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.'' Similarly, the First Circuit determined that state laws requiring disclosure of the names of board members on political action committees ''neither erect a barrier to political speech nor limit its quantity. Rather, they promote the dissemination of information about those who deliver and finance political speech, thereby encouraging efficient operation of the marketplace of ideas.''

4. Proposals To Increase the Public File Requirement Rejected

81. We decline to adopt any new disclosure obligations with respect to sponsorship identifications and shared services agreements at this time. While we continue to believe that the public would likely benefit from further information regarding sponsorship identifications and shared services agreements as discussed in the *FNPRM,* we believe it inadvisable to impose new reporting requirements at the same time stations are transitioning to the online public file. We wish to ensure that this *Second Report and Order,* in all major respects, involves changing only the form of disclosure and location of material already required to be included in the public file. We discuss both of these categories below.

82. *Sponsorship Identifications.* We will not at this time require new written disclosure of sponsorship identifications in the online public file, as proposed in the *FNPRM.* Section 317 of the Communications Act requires that broadcasters disclose to their listeners or viewers at the time of broadcast whether material was aired in exchange for money, services, or other valuable consideration. The Commission's sponsorship identification rules implement these provisions and require that stations provide an on-air disclosure when content is paid for, furnished, or sponsored by an outside party. With the exception of sponsored political advertising, and certain issue advertising that must be disclosed in writing, these rules require that stations make an on-air disclosure only once during the programming and that the disclosure remain on the screen long enough to be read or heard by an average viewer. The implementing rule has long had an additional public file recordkeeping component for political and controversial issue announcements, as discussed further below. The *FNPRM* noted that the *INC Report* discussed examples of ''pay-for-play'' arrangements at local TV stations, where ''advertisers have been allowed to dictate, shape or sculpt news or editorial content.'' Despite our decision not to add new reporting requirements, we continue to believe that issues pertaining to sponsorship identification and ''pay-for-play'' are important. We will continue to monitor the use of these practices, and enforce the statute as appropriate.

83. While we agree with commenters that additional written sponsorship disclosures—posted to a station's public file—would benefit the public by addressing the shortcomings of sometimes fleeting on-air disclosures and would provide valuable information that is otherwise difficult to collect, we are also persuaded that we lack sufficient information at this time to properly evaluate the burden that complying with this requirement would impose.

84. *Sharing Agreements.* We also decline to adopt the tentative conclusion that stations include sharing agreements in the online public file. In the *FNPRM,* the Commission asked whether sharing agreements among licensees, such as local news sharing and shared services agreements, should be available in the online public file.

Some broadcasters argue that the disclosure of sharing agreements is beyond the scope of this proceeding, and should be considered in a separate proceeding. They argue that the Commission must first solicit comment and determine the legal status of such agreements. They argue that there has been no determination that shared services agreements are relevant to compliance with any Commission rules or standards, unlike time brokerage agreements and joint sales agreements, which the Commission has deemed to

have attribution implications, and which are required to be placed in the public file. Some note that the recent 2010 Quadrennial Review seeks comment on sharing agreements, and argue that it would be premature to require disclosure of sharing agreements prior to the conclusion of that review. We disagree that the Commission must first address the appropriate regulatory status of such agreements prior to requiring their disclosure, as disclosure itself could inform those decisions and the Commission has wide latitude to impose such a requirement. Nonetheless, we decline to impose this new requirement on broadcasters as they transition to the online public file. We will continue to monitor this issue, and revisit a disclosure requirement either in this proceeding, or in the ownership proceeding, as suggested by broadcasters. Because we decline to adopt this requirement, we will not address comments pertaining to the scope of shared services agreements covered by this proposal.

D. Format of the Online Public File

85. We will not establish specific formatting requirements for documents posted to the online public file at this time. Some commenters promoted making the data well-structured, as searchable as possible, and downloadable. PIPAC argues that the online public file should be searchable by text within the documents, and also by station, state, date, element of the public file and any other metadata contained in the file. They further argue that the file should provide an easy-to-use graphic interface in addition to an API, as these both provide searching and downloading of documents and metadata en mass. We agree that certain information in the public file would be of much greater benefit to the public if made available in a structured or database-friendly format that can be aggregated, manipulated, and more easily analyzed; this continues to be our ultimate goal. We agree with PIPAC, however, that converting the files to this format would take time and money, and the online public file should not be delayed in order to make all of the material in it available in such a manner. PIPAC argues that this will likely result in the submission of documents in non-searchable, non-machine readable format, but it believes this proposal represents a reasonable trade-off between maximizing searchability and the need to expedite access to broadcasters' online public files. We agree that this trade-off is reasonable, and adopt the Commission's tentative conclusion that the benefits of an online public file should not be delayed. At this time we therefore will not require broadcasters to undertake the burdens of altering the form of documents already in existence prior to posting them to the online public file. We observe, though, that even without mandating that documents be filed in a particular format, our creation of a centralized, orderly public file will facilitate search and analysis across all elements of stations' public files.

86. We adopt the *FNPRM*'s proposal to require stations to upload any electronic documents in their existing format to the extent feasible. For example, to the extent that a required document already exists in a searchable format—such as the Microsoft Word .doc format or non-copy protected text-searchable .pdf format for text filings, or native formats such as spreadsheets in Microsoft .xml format for non-text filings—broadcasters are expected to upload the filing in that format to the extent technically feasible. PIPAC agreed with our proposal to require stations to file documents in their native electronic format. We understand that it may be difficult for stations to provide older material that has been in the public file for some time in its native format. In those instances, we understand that stations may need to scan these materials for electronic upload into the online public file. We expect that the need to do this will diminish over time.

87. Also consistent with the *FNPRM,* the Commission will use optical character recognition on public file materials that are scanned, and by default are non-searchable. The Commission asked in the *FNPRM* whether, to the extent documents are posted in a non-searchable format, the Commission should digitize the documents and perform optical character recognition (''OCR'') on them. PIPAC agrees with the Commission's suggestion that if a broadcaster posts a record in only a non-searchable format, the Commission should use an OCR tool to permit maximum searchability. PIPAC notes that commonly available document formats—including Microsoft Word .doc, .txt, .pdf or .odf—can be searched, and can easily be converted into a .pdf file that can be processed by an OCR tool so the contents can be loaded into a searchable database. But commenter Ryan Thornburg notes that OCR software is expensive and faulty, and prefers that the Commission require well-structured formats. For the reasons discussed above, we decline to do so at this time. We determine that, when appropriate, the Commission will use OCR. OCR will be used when text cannot be extracted from the uploaded document format. When documents are uploaded to the online public file, documents that are not in recognized formats will be automatically pushed into OCR, which will scan the document to extract as much text as possible.

88. *Metadata.* We will not require stations to create or preserve metadata in the online public file. In the *FNPRM,* the Commission asked whether users should be able to determine when each item was uploaded to the file, whether the Commission should make available metadata about who uploaded the item, and if there were any concerns about metadata disclosures for confidential or privileged information. NAB anticipates that many stations may use software that removes metadata from its documents for reasons of confidentiality, privilege, or privacy, and does not see value in disclosing who uploaded a document, other than differentiating between documents uploaded by the Commission versus a station. The Sunlight Foundation noted that as long as each station provides contact information, there is no need for the metadata to identify the individual who uploads a filing. We agree, and determine that stations using software that removes metadata will not be required to make any modifications. Given that we will be requiring station contact information, as discussed above, we do not believe that it is necessary to make metadata information available as part of the online public file. However, the Sunlight Foundation also argues that being able to identify the time and date of a filing is important, as it helps to track the most recent version of a particular filing, and allows the user to create a timeline of submitted files. This information, which is captured by the system as files are uploaded, does not generate similar privacy concerns as the metadata contained within the documents uploaded by stations. Our system may present information on the date and time of a filing to users.

E. Implementation

89. Having concluded that broadcast television stations must upload the contents of their public file, other than the political file and letters from the public, to a Commission-hosted online public file, we next discuss issues relating to implementation of the new posting procedure. As with our consideration of all the issues covered by this Order, our resolution of implementation issues is guided by a commitment to creating an online public file experience that is not

burdensome for broadcasters, and is as useful as possible for the public.

90. *Cloud-Based Solution.* We plan to develop the online public file in accordance with the Federal Government's ''Cloud First Policy'' which directs agencies to default to scalable and elastic, cloud-based solutions for increased reliability at lower cost. The public file, consisting entirely of publicly disclosed material, is ideal for leveraging the cloud-based hosting solutions. We anticipate being able to design an online public file that is highly available, scalable, cloud-based, and eliminates any user wait times associated with processing documents after upload. We expect that this will enable stations to upload public file material in a timely fashion, including uploading political file material promptly even during times of increased traffic prior to elections.

91. We disagree with broadcasters who argue that their experiences trying to file the revised Form 323 ownership reports suggest a Commission-created database would suffer from implementation problems. These commenters represent that it can take hours to upload just one attachment to the revised Form 323, and that the political file contains similarly large documents. They argue that such delays would be unacceptable with respect to the political file, where timely access is so important. We agree that it is essential that stations are able to upload public file documents, and particularly political files, efficiently, and that the online public file should be able to handle many stations uploading documents at the same time even during an election season. We recognize problems stations have experienced uploading the revised Form 323 and are working to fix those problems. But we do not anticipate similar problems with respect to uploading the public file. The delays in the Form 323 uploading process stem from the time required in the current Form 323 filing application to validate the large spreadsheets that must be filed with Form 323, and the validation queuing process. Public file documentation will not be subject to the validation process that is required for the Form 323 spreadsheets, nor will we need to impose a similar queuing system necessitated by the validation process. Furthermore, Form 323 was launched and run on existing FCC infrastructure. Since then, the Commission has begun utilizing scalable cloud-based IT architecture solutions to enhance the agency's capabilities. In particular, the Commission anticipates using for online public files the same scalable architecture that currently is being used successfully for the Customer Proprietary Network Information certification document filing system and the National Broadband Map.

92. *Back-up Files.* In lieu of requiring stations to maintain back-up copies of all public file materials, as proposed in the *FNPRM,* the Commission will generate copies of their online files. With respect to the political file, however, we will require stations to maintain local electronic back-up files to ensure that, in the event our online public file were to become temporarily unavailable, they can comply with their statutory obligation to make that information available to candidates, their representatives, non-candidate political time buyers and the public generally as soon as possible. To minimize any burden imposed by this requirement, we have developed tools to allow stations to easily copy mirrors of their online public files, which contain the political files.

93. In the *FNPRM,* the Commission proposed that stations retain electronic copies for back-up purposes of all public file items in the event the Commission's online public file were to become unavailable or disabled. The Commission also proposed that in such circumstances, stations would have to make these back-up files available to the public. We are persuaded by commenters, however, that requiring stations to maintain back-up copies of all public file materials and to make them routinely available directly to the public would reduce the efficiencies of placing the public file online. These commenters explain that such an approach would force stations to continue maintaining a separate complete public file on site so as to comply with the Commission's rules at a moment's notice.

94. To ensure that stations' public files are available even if the Commission's online public file were to become temporarily unavailable or in the event technical problems prevented broadcasters from accessing the Commission's online file, we will create ''failover'' backups of the online public file, including mirroring daily snapshots of the public file. That is, the Commission will make a mirror copy of each station's public file records daily to ensure that if the data in the online public file is compromised, the public files can be reconstituted using the back-up copy. Thus, the Commission will relieve stations of the burden of maintaining a back-up of the entire public file locally. In addition, with the exception of the political file, discussed below, will not make stations responsible for making available to the public information from the public file in the event the Commission's online files become temporarily inaccessible; the mirroring approach will enable us to perform the back-up function ourselves. Although we will not require stations to maintain back-up copies of the public file, stations are free to maintain back-up materials and to continue to make the public file available locally or on their own Web site, in addition to on our Web site, if they choose to do so. To the extent the public may experience a delay in accessing the information due to the brief unavailability of the online file, we consider that delay (with the exception of the political file), on balance, to be acceptable in order not to burden broadcasters with the necessity of making public file materials available to the public at the station. If the Commission's online file becomes temporarily inaccessible to stations for the uploading of new documents, however, stations must maintain those documents and upload them to the online file once it becomes available again for upload. The Commission will also daily make the mirror copy of every station's public file available for the station or other interested parties to download so that, if they wish, they can periodically download a complete mirror of their public file or automate a periodic synchronization.

95. As suggested in the *FNPRM,* we conclude that additional steps should be taken to ensure that access to the political file is not compromised. Accordingly, if the Commission's online public file were to become temporarily unavailable, stations will be required to provide any information pertaining to the political file not just to candidates, their representatives and other political time buyers, but directly to any member of the public as well. The benefits of making such information available immediately outweigh the burdens of maintaining this limited back-up requirement. Given the short seven-day deadline for candidates to request equal opportunity appearances, it is essential to candidates' exercise of their rights under the Act that they have prompt access to political file information. Moreover, limiting that access to candidates and their representatives would be inconsistent with the Communications Act, which requires that political file information shall be ''available for public inspection'' and ''placed in a political file as soon as possible.'' These requirements do not distinguish between candidates and their representatives and other members of the public. In addition, although only

candidates have rights to equal opportunities and lowest unit charge under Section 315, other members of the public may also have time-sensitive needs to access a station's political files. For example, a sponsor of a political issue advertisement may have a significant interest in ascertaining which candidates or other issue advertisement sponsors have bought time at a station.

96. The Commission is taking all steps necessary to ensure that the Commission-hosted online public file will not become unavailable, and we expect instances of unavailability to be both rare and of short duration. As a result, we do not expect the requirement to provide back-up access to the political file during any times of outages to be overly burdensome. In addition, we will allow stations to retain such information in whatever form is most convenient for them. Our making mirror copies of stations' public files available to stations, as described above, will enable stations to comply with the political file back-up requirement with little burden. That is, while not required, stations may choose to meet the political file back-up requirement by periodically downloading a mirror copy of the public file. When choosing this option, stations will need to ensure that they retain any political file records that have not been uploaded or were uploaded after their last download of a mirror copy of their online public file. This means that if a station decides to download a mirror copy of their online public file on a weekly basis, it will need to maintain at the station, in paper or electronic form, any documents that have not been uploaded or that it uploaded to the online political file after its last weekly download. If a station chooses to download a mirror copy of their online public file on a monthly basis, it will need to maintain at the station any documents that have not been uploaded or that it uploaded to the online political file after its last monthly download. If a station chooses not to download a mirror copy of their online public file, and does not otherwise satisfy the back-up requirement, it will need to maintain at the station all documents required to be in its online political file. We stress that stations will only be required to make these backups available if and during such time as the Commission's online public file is unavailable, which we believe will only happen in rare instances, such as national or localized emergencies, because the Commission will follow necessary protocols for creating failover backups of the online public file.

97. *Compliance Dates.* In order to facilitate a smooth transition to the online public file, we will provide a phase-in period for stations to begin uploading files. Stations will be required to begin using the online public file after the effective date of this Order, which is 30 days after the Commission announces in the **Federal Register** that OMB has completed its review under the Paperwork Reduction Act and approved the collection.[9] After the effective date, if a station determines that any document must be placed in the public file, that document must be posted to the online public file. We refer to this as the requirement to post documents online ''on a going-forward basis.'' In order to ensure that broadcasters have time to familiarize themselves with the online public file, the Commission will make a version available to the public soon after adoption of this item. We also instruct the staff to help educate broadcasters about the online public file and how it functions.

98. To ensure that existing public file materials—that is, the public file as it exists prior to the effective date—are uploaded to the online public file in an orderly manner, we will give broadcasters sufficient time to do so. Stations will be permitted to begin uploading existing public file materials immediately after the effective date, at the same time stations must also begin posting online documents on a going-forward basis. Stations must complete the process of uploading the existing public file within six months after the effective date, *i.e.,* six months after the Commission publishes a notice in the **Federal Register** announcing OMB approval under the Paperwork Reduction Act. We believe that giving stations six months to complete the upload of existing files will provide broadcasters adequate time and flexibility to undertake this process.

99. *Accessibility for People with Disabilities.* In the *FNPRM,* the Commission stated that it intended to ensure that the online public files, like the rest of the Commission's Web site, is accessible to people with disabilities. Under Section 508 of the Rehabilitation Act, federal agencies must ensure that members of the public who have disabilities and who are seeking information or services from a federal agency ''have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.'' For federal agencies, including the Commission, this requires access by people with disabilities to the agencies' Web sites, including electronic filing systems, such as the Commission's ECFS. In the *FNPRM,* we sought comment on whether further actions were necessary to ensure compliance with respect to the online public file. No commenters raised concern about this issue. To assure compliance, the Commission will perform accessibility tests and address any known issues once the online public file has been created. We believe that Commission compliance with the requirements imposed by Section 508 of the Rehabilitation Act will be sufficient to ensure that the online public file is accessible to individuals with disabilities. If we learn of any problems with accessibility of the online public file, we will revisit this issue.

100. *Geographic Coverage Area.* The Commission's online public file will be available to anyone who has Internet access, regardless of their location. Two petitioners on reconsideration of the *2007 Report and Order* suggested that broadcasters should be permitted to limit online public file access to viewers within a station's geographic coverage area. The Commission concluded in the *FNPRM* that it saw no reason to limit online access to the public file, nor did it know of a workable mechanism for implementing and enforcing such a proposal. No commenter opposed this tentative conclusion, and commenters in support agreed that limiting access to a station's public file to viewers within a station's viewing area would be misguided. We believe it entirely consistent with Congressional intent in adopting Section 309 of the Act to enhance the ability of both those within and those beyond a station's service area to participate in the licensing process. We see no additional burdens, and several benefits, in providing full access to the public file of each station. We note, moreover, that such a restriction would reduce the scope of public access now provided by our rules—a result clearly at odds with our objective of increasing the transparency and availability of public records. We conclude that each station's online public file will not be limited to viewers within its geographic coverage area.

[9] Public Law 104–13. The Commission previously sought comment on the paperwork burden associated with these proposals. See 76 FR 72144 (Nov. 22, 2011). Because the Order today substantially adopts the item as proposed in the *FNPRM,* with the exception of a few proposed collections that we are declining to impose, a 30 day public comment cycle will be appropriate. 5 CFR 1320.11(h). The Commission will publish a notice in the **Federal Register** regarding the reduced paperwork burdens adopted in this Order. The OMB review process will then commence.

101. *Maintenance.* In order to keep each public file orderly, we conclude that stations must actively maintain their online public file, although the Commission will ensure that items filed in CDBS are updated in the public file as they are updated on CDBS. In the *FNPRM,* the Commission proposed that stations would be expected to maintain their online public files, ensuring that the files contain the information required by the public file rules and that items be removed once they no longer must be retained under our rules.[10] In response, APTS and PBS argue that it would be more efficient for the Commission automatically to replace old materials when new materials are imported into the public file. They argue that it is inefficient and burdensome for stations to be required to monitor the addition and deletion of materials. They also argue that the Commission should avoid introducing contradictory objectives by punishing stations for sharing information above and beyond what is required while still expecting the stations to increase disclosure so the public is informed of the station's broadcast services.

102. We believe it is important that stations maintain orderly public files. While one of our goals is increased disclosure, another is to be able to provide the public with relevant information in an efficient manner. We are concerned that if material is never removed from the online public file, it will be difficult for the public to find information that is relevant. We note that public file items have different document retention periods, and recommend that stations remove such items in a timely fashion. We do not require stations to remove each item at the end of its retention period, but note that stations are still required to maintain an orderly file. Each station's online public file should not become so overgrown with out-of-date documents that it is difficult to access relevant materials. To assist with this process, the Commission will strive to facilitate the identification and management of aging materials. The Commission will explore creating a mechanism to automatically identify documents that may be beyond their retention period, and flag such documents for station review. Some categories of documents, such as time brokerage agreements and joint sales agreements that need to be retained for as long as the items are effective, will need active management on the part of the station. At a minimum, we will require stations to remove expired contracts when and if replacement agreements are uploaded. Materials in the online file will be disposed of consistent with the records schedule we will develop under the Federal Records Act.

103. *Certification.* We decline the request of two parties that the Commission remove a question on renewal Form 303–S that asks whether local public file documents have ''been placed in the station's public inspection file at the appropriate times.'' The two parties argue that this certification will be unnecessary, since the online public file will be available for anyone to evaluate for completeness. We disagree. Although the Commission will be importing into the online public file all items that are filed with the Commission in CDBS, stations will still be responsible for uploading to the online public file all other items required under our rules. In order to upload information into its online public file, a station will need to log in with the same credentials used to file station applications and materials in CDBS. This will ensure that only station licensees will be able to post information to their files. As there will still be a requirement that stations maintain their public files, it is necessary that stations certify to their compliance with this requirement at the time of license renewal. This certification requirement is designed to promote voluntary rule compliance. In addition, as noted in the *FNPRM,* a successful upload of a station's public file on the Commission's Web site will not be considered agency approval of the material contained in the filing. The purpose of online hosting is to provide the public ready access to the material, although Commission staff may review the material placed in each station's online public file, just as Commission staff currently reviews station public files to determine compliance with Commission rules.

104. *Working Group and Pilot Program.* We decline to adopt NAB's proposal that the Commission create a joint Commission-broadcaster working group or a pilot program to address the implementation issues and technical challenges raised by the online public file. NAB argues that a working group, through which the Commission would work with broadcasters to design the online public file and develop rules for its use, would likely reduce overall costs and burdens for the Commission and stations by identifying more quickly potential problems and their solutions. NAB and others also support a pilot program, through which a limited number of stations would test the online public file before the Commission requires broadcast stations to post files to it. Named State Broadcasters Association argues that a pilot program is an important way for the Commission to meet its statutory obligations under the Paperwork Reduction Act. We disagree with their argument that rules implementing the Paperwork Reduction Act require the Commission to test information collections a pilot program. These commenters argue that the Commission will gain valuable experience and insight if it conducts a pilot program involving the licensees of representative large, medium, and small market commercial and noncommercial educational television stations, and their trade association representatives. Other implementation suggestions include transition periods, phase-in approaches, and workshops.

105. For more than ten years the Commission has been exploring in this proceeding the best way to move broadcasters' public files online to make them more accessible. A broad group of commercial and noncommercial broadcasters has participated in every phase of the proceeding. We do not believe a working group or pilot program is necessary to ensure that the process of implementing an online public file is successful, and we believe that the creation of a working group as a condition precedent could unduly delay its implementation. One commenter claims that details of a ''pilot program'' were not properly raised in the *FNPRM.* To the extent these notice concerns relate to the phase-in approach we are adopting in this proceeding, we note that in the *FNPRM,* the Commission sought comment on whether we should ''consider creating different requirements for small television broadcasters.'' In any event, the Commission has discretion to implement changes in a step-by-step fashion.

106. We are addressing the concerns expressed about implementation, however. The Commission is undertaking rigorous testing of the online public file to ensure a smooth user experience. We will provide opportunities for user testing and education before stations are required to upload their online public files. Because our rules will require stations simply to upload information to a Commission-hosted online public file, a process similar to uploading applications to CDBS—which licensees have been

[10] As required by the Federal Records Act, 44 U.S.C. 3301, *et seq.,* the Commission will create a records schedule to set the retention and disposal of the files. The schedule will require approval by the National Archives and Records Administration. The records schedule will govern our handling of the station files.

doing for more than ten years—we do not believe that this process demands the kind of groundwork that broadcasters advocate. As already discussed, only 200 stations, or approximately 11% of all stations, will be required to upload their political files for the first two years. While this is not a pilot program, we believe that this smaller group of stations, which as major-network affiliates are generally likely to be relatively capable and sophisticated users of technology, can assist in meeting NAB's stated goals of addressing implementation issues and technical challenges as they arise. In addition, as discussed above, we believe that the user testing and education we will provide will assist stations with any concerns they may have. Commission staff will be dedicated to assisting stations with any issues they may confront after implementation of the online public file. We will also explore the option of providing user or peer support groups to help stations identify and work through implementation issues. Such support groups can assist the Commission in identifying whether any issues are common to many users, or station-specific.

F. Announcements and Links

107. We decline to adopt the *FNPRM*'s proposal to require stations to make on-air announcements about the availability of the online public file, but do adopt the proposal that stations provide information about the online public file on their Web sites to the extent that they have them. In the *2007 Report and Order,* the Commission adopted a requirement that stations make twice-daily announcements about the online availability of the public file. On reconsideration, public television petitioners argued that this was unduly burdensome, and asked that the Commission reduce this requirement to a few times a week, at most. In the *FNPRM,* the Commission proposed that stations be required to notify viewers of the existence, location, and accessibility of a station's public file; it noted that if most viewers are unaware of the existence of the public file or how to access it, its usefulness would be greatly diminished.

108. The Commission has long required stations to identify both the call letters of their stations and the cities which they are primarily licensed to serve in order to enable the public to readily ''identify the stations to which they are listening and, further, to identify the communities which they are primarily licensed to serve.'' APTS and PBS argue that stations should have the option of making announcements regarding the online public file on their Web sites without having to also make an on-air announcement. APTS and PBS argue that on-air announcements are ineffective in informing the public because they are fleeting and might not reach all individuals within the community, whereas a notice on the station's Web site is more likely to be found by persons who are interested in accessing an online public file and can provide more detail. We are persuaded that providing information on a station's Web site about the existence and location of the online public file is a better means of ensuring that all viewers know about the availability of the online public file than requiring occasional on-air announcements. Stations will, however be required 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, as reflected in Appendix A of the *Second Report and Order.*

109. We adopt the tentative conclusion that stations that have Web sites be required to place a link to the online public file on their home page. Common Frequency supports the proposal, and no commenter opposed it. Although we have concluded that posting station information to an online public file hosted by the Commission will make the information easily accessible by viewers, we want to ensure that those viewers who seek such information on a station's Web site are directed to the online public file, particularly since stations will not be required to broadcast on-air announcements regarding the change in location of their public file. In lieu of requiring stations to announce on their Web sites the availability of their correspondence files at their main studios, we will include language in the online public file that directs the public to the station's main studio to access letters and email from the public.

110. We also adopt the *FNPRM*'s proposed requirement that stations that have Web sites include on their home page contact information for a station representative that can assist any person with disabilities with issues related to the content of the public files. We note that if stations receive comments about the accessibility of the online public file system, it should direct those questions and concerns to the Commission. PIPAC noted that for a person with disabilities, ''the burden of searching through several pages or levels becomes an insurmountable barrier.'' We will adopt the proposal, which no commenter opposed.

G. Radio and Multichannel Video Programming Distributors

111. Consistent with the *FNPRM,* we limit this proceeding to television stations at this time. In the *FNPRM,* the Commission noted that this proceeding is directed toward television broadcasters, and that we may require radio licensees to abide by similar public file reforms at a later date. LUC Media Group asks that the Commission consider requiring radio and cable systems to also maintain an online public file. We disagree that we should extend the online public file rules to radio and cable systems (or other multichannel video programming distributors (''MVPDs'')) at this time. First, because this proceeding has long focused only on television stations, we do not have a sufficient record concerning radio stations or MVPDs on which to consider possible new rules for those entities. Second, as discussed in the *FNPRM,* we anticipate that starting the online public file process with the much smaller number of television licensees, rather than with all broadcasters and MVPDs, will ease the initial implementation of the online public file.[11]

112. Public TV Licensees asks that we allow NCE radio stations, or at least those that are licensed to the same entity as, or under common control with, an NCE television station, to maintain their public inspection files online on the Commission's Web site on a voluntary basis. Public Television Licensees argues that this will allow radio stations that are jointly owned or operated with television stations to avoid duplicative efforts from having to maintain two separate public file systems, involving some of the same documents. It notes that with respect to the NCE rules, all of the requirements for radio stations are being included in the proposed online public file. We appreciate that commonly owned and operated radio stations may prefer an

[11] We reject arguments that requiring television broadcasters to place their political files online will put them at a disadvantage with respect to competitors, such as MVPDs and radio stations. As discussed above, to the extent competitors and potential advertisers have an economic incentive to access this information, they can already do so at the station; the online disclosure rule will not alter the economic incentives of these entities in any meaningful way. In any event, the Commission has discretion to implement changes in a multistep fashion. We further note that 75% of political advertising is spent on broadcast television, thus demonstrating a preference by media buyers to utilize broadcast television over other forms of available media to reach voters or customers. There is no evidence in the record to suggest that such advertising would shift to other forms of media simply because rate information, already public, will now be accessible online.

early transition to the online public file. In this initial phase of implementing the online public file, however, we are concerned about adding a significant number of additional entities to the universe of users. As we and the broadcasting industry gain more experience with the online public file we will revisit the possibility of allowing stations not required to use the online public file to use it on a voluntary basis. We delegate to Commission staff the authority to allow (but not require) radio stations to voluntarily post their public files at such time as staff determines that such an option is feasible and desirable; this will ensure that radio stations wishing to avail themselves of the online public file can do so promptly. We further authorize Commission staff to take into account common-ownership considerations if appropriate.

IV. Procedural Matters

A. Regulatory Flexibility Analysis

113. As required by the Regulatory Flexibility Act (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the *Order on Reconsideration and Further Notice of Proposed Rulemaking* (*Further Notice*) in MB Docket 00–168. The Commission sought written public comment on the proposals in the *Further Notice,* including comment on the IRFA. We received comments from the North Carolina Association of Broadcasters *et al.* specifically directed toward the IRFA. These comments are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

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

114. 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. Broadcasters are afforded considerable flexibility in how they meet that obligation. Among other things, they are required to maintain a public inspection file, which gives the public access to information about the station's operations. The goal of this *Second Report and Order* is to modernize this public inspection file requirement, making the public file information more accessible to members of the public who cannot visit a station during business hours to review the public file.

115. The *Second Report and Order* adopts rule changes that will:

- Replace the requirement that television stations maintain a paper public file at their main studios with a requirement to submit documents for inclusion in an online public file, including the political file, to be hosted by the Commission;
- Reduce the number of documents that television stations would be required to upload to an online public file, by automatically linking to information already collected by the Commission;
- Streamline the information required to be kept in the online file, such as by excluding letters and emails from the public; and
- Give the online public file a uniform organizational structure to allow consumers to more easily navigate the public files.

Legal Basis

116. The proposed action is authorized pursuant to Sections 1, 2, 4(i), 303, and 405 of the Communications Act, 47 U.S.C. 151, 152, 154(i), 303, and 405.

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

117. In the IRFA, we stated that our purpose was to ensure that any changes to applicable rules would impose only minimal adverse impact on small entities. We also solicited comments on alternatives to the proposed rules that would minimize the impact that any changes to our rules might have on small entities. In their comments, North Carolina Association of Broadcasters *et al.* states that the IRFA has not ''fully acknowledged, much less actually considered and developed any data to evaluate, the economic impacts of its proposals to require broadcasters to upload their political files to the FCC's servers and to require broadcasters to report all sponsorship identifications in the online public file.'' The North Carolina Association of Broadcasters *et al.* also states that ''the Commission has underestimated the burden of creating, updating, and maintaining these materials'', and has not analyzed the costs to the Commission, which it claims will ''undoubtedly'' be bourn by small businesses via increased regulatory fees.

118. We disagree with these claims. The *FNPRM* and *Second Report and Order,* including the IRFA and this FRFA, consider the impacts of this revised recordkeeping requirement. Section III.B. of the *Second Report and Order* discusses how broadcasters' initial costs of compliance are minimized, and how the online public file will ultimately lead to cost savings. This section discusses the Commission's cost analysis, including our determination that broadcaster's initial costs of compliance to upload their existing public file will average from $80 to $400 per station. We understand that North Carolina Association of Broadcasters *et al.* disagrees with our evaluation of the burdens that will be placed upon broadcasters in order to comply with these revised recordkeeping requirements as discussed in the *FNPRM.* Those arguments are considered in this *Second Report and Order.* We also disagree with North Carolina Association of Broadcasters *et al.'s* assertion that this Regulatory Flexibility Analysis must more fully consider costs to the Commission. We find that such a claim by the Association is based on purely speculative, and therefore spurious, grounds. In making the determinations reflected in the *Second Report and Order,* we have considered the impact of our actions on small entities, which is the requirement of the Regulatory Flexibility Act. In any event, the Commission is taking steps in this *Second Report and Order* to minimize burdens on small entities, by undertaking the automatic posting of several items that are required to be placed in the online public file, as discussed in Section E, *supra.* In addition, the Commission declined to adopt the proposal that stations report all sponsorship identifications, as discussed by the North Carolina Association of Broadcasters, and shared services agreements, along with weekly on-air announcements. Also, the Commission is providing an exemption from uploading the political file to all stations that are not in the top 50 DMAs and all stations not affiliated with the top four national television broadcast networks, regardless of the size of the market they serve, until July 1, 2014. This will enable small market and non-affiliated broadcasters to have two additional years to familiarize themselves with the online filing requirements before they need to begin uploading their political files on a going-forward basis.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

119. 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.

120. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $14.0 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,390. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) as of January 31, 2011, 1,006 (or about 78 percent) of an estimated 1,298 commercial television stations in the United States have revenues of $14 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (''NCE'') television stations to be 391. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. 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.

121. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore 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. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

122. The rule changes adopted in the *Second Report and Order* affect reporting, recordkeeping, or other compliance requirements. Television broadcasters are currently required to maintain a copy of their public inspection files at their main studios. The *Second Report and Order* requires stations to replace that requirement with a requirement to submit documents for inclusion in an online public file, including the political file, to be hosted on the Commission's Web site. Items in the public file that must also be filed with the Commission, including FCC authorizations, applications and related materials, contour maps, ownership reports and related materials, portions of the equal employment opportunity file, the public and broadcasting manual, children's television programming reports (Form 398), and DTV transition education reports (Form 388), will be automatically imported into the station's online public file. Television stations will only be responsible for uploading and maintaining items that are not required to be filed with the Commission under any other rule. The *Second Report and Order* also excludes some items from the online public file requirement, such as the existing political file and letters and emails from the public, which will continue to be maintained at the station, and also declines to add other items to the online public file requirement, including sponsorship identifications and shared services agreements, and weekly announcements of the existence of the public file.

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

123. 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.

124. The *Second Report and Order* seeks to minimize and modernize reporting requirements on all television broadcasters, by having the Commission host the online public file. The previous *Report and Order* in this proceeding, which has been vacated, required stations to host their own public file. Having the Commission host the public file will ease the administrative burdens on all broadcasters. More than one-third of the required contents of the public file already have to be filed with the Commission, and the *Second Report and Order* requires the Commission to import and update that information, creating efficiencies for broadcasters. North Carolina Association of Broadcasters *et al.* note that the estimate for the proportion of the public file that is already filed with the Commission is based on categories of filings, and not the overall amount of paperwork that needs to be filed.

125. Given the wide variations of most public files, we are not able to estimate the precise decrease in burdens that each station will undergo by no longer being responsible for placing in the public file items that are already filed by the Commission. But regardless whether the decrease in burdens is measured by category or by overall amount of paperwork, every station will have its burdens reduced by eliminating this duplicative requirement. We also understand that all stations will have an increased burden for the initial transition period from the paper public file to an online public file. We do not believe that this effort will be unduly burdensome on small entities, and we believe that any such burdens are trumped by the increased efficiencies that will result from such a transition.

126. In any event, the *Second Report and Order* does not require any station to upload its existing political files, instead allowing stations to retain such materials at the station until those files expire after their two year retention period. All stations will only be required to upload political file material on a going-forward basis. In addition, the Commission is exempting all stations that are not in the top 50 DMAs and all stations not affiliated with the top four national television broadcast networks, regardless of the size of the market they serve, from having to post new political file materials online until July 1, 2014 from including their political file material in the online public file. After that date, those stations will be required to upload new political file material on a going-forward basis. This will enable non-affiliated broadcasters and smaller market broadcasters to have additional time to

familiarize themselves with the online filing requirements before they need to begin uploading their political files.

127. Overall, in proposing rules governing an online public file requirement, we believe that we have appropriately balanced the interests of the public against the interests of the entities who will be subject to the rules, including those that are smaller entities.

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

128. None.

B. Paperwork Reduction Act Analysis

129. This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995.[12] The Commission previously sought comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 or fewer employees.

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

V. Ordering Clauses

131. Accordingly, *It is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 303, 307, and 315 of the Communications Act, 47 U.S.C. 151, 152, 154(i), 303, 307, 315, this *Second Report and Order* is adopted.

132. *It is further ordered* that the requirement that stations 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. Stations will be responsible for placing existing public file documents into the Commission-hosted online public file, with the exception of letters and emails from the public and the existing political file, as required by this *Second Report and Order,* within six months after the Commission publishes a notice in the **Federal Register** announcing OMB approval. Until July 1, 2014, stations not in the top 50 DMAs and all stations not affiliated with the top four networks, regardless of the size of the market they serve, are exempt from the requirement, under 47 CFR 73.3526(b)(3) and 73.3527(b)(3), of filing their political file online.

133. *It is further ordered* that the proceeding in MM Docket No. 00–44 is terminated.

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The Authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

■ 2. Amend § 73.1212 by revising paragraph (e) to read as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(e) The announcement required by this section shall, in addition to stating the fact that the broadcast matter was sponsored, paid for or furnished, fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity by whom or on whose behalf such payment is made or promised, or from whom or on whose behalf such services or other valuable consideration is received, or by whom the material or services referred to in paragraph (d) of this section are furnished. Where an agent or other person or entity contracts or otherwise makes arrangements with a station on behalf of another, and such fact is known or by the exercise of reasonable diligence, as specified in paragraph (b) of this section, could be known to the station, the announcement shall disclose the identity of the person or persons or entity on whose behalf such agent is acting instead of the name of such agent. Where the material broadcast is political matter or matter involving the discussion of a controversial issue of public importance and a corporation, committee, association or other unincorporated group, or other entity is paying for or furnishing the broadcast matter, the station shall, in addition to making the announcement required by this section, require that a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association or other unincorporated group, or other entity shall be made available for public inspection at the location specified under § 73.3526. If the broadcast is originated by a network, the list may, instead, be retained at the headquarters office of the network or at the location where the originating station maintains its public inspection file under § 73.3526. Such lists shall be kept and made available for a period of two years.

* * * * *

■ 3. Amend § 73.1943 by adding paragraph (d) to read as follows:

§ 73.1943 Political file.

* * * * *

(d) *Location of the file.* A television station 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 public file on the Commission's Web site. A television 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. The online political file must be updated in the same manner as paragraph (c) of this section.

■ 4. Amend § 73.3526 by revising paragraph (b) to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be located as follows:

(1) For radio licensees, a hard copy of the public inspection file shall be maintained at the main studio of the station. For television 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

[12] Public Law 104–13. The Commission previously sought comment on these proposals. *See* 76 FR 72144 (Nov. 22, 2011).

proposed community of license or at its proposed main studio.

(2) A television station licensee or applicant shall place the contents required by paragraph (e) of this section of its public inspection file on the Commission's Web site, 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. 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) A television station licensee or applicant shall place the contents required by paragraph (e)(6) of this section of its political inspection file on the Commission's Web site. Political inspection file material in existence 30 days after the effective date of this provision 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. Any 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 on the Commission's Web site, while the material in the political file as of July 1, 2014, if not placed on 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 on the Commission's Web site 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.

(4) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: authorizations, applications, contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; ''The Public and Broadcasting''; Letters of Inquiry and other investigative information requests from the Commission, unless otherwise directed by the inquiry itself; Children's television programming reports; and DTV transition education reports. In the event that the online public file does not reflect such required information, the licensee will be responsible for posting such material.

* * * * *

■ 5. Amend § 73.3527 by revising paragraph (b) to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

* * * * *

(b) *Location of the file.* The public inspection file shall be located as follows:

(1) For radio licensees, a hard copy of the public inspection file 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) A noncommercial educational television station licensee or applicant shall place the contents required by paragraph (e) of this section of its public inspection file on the Commission's Web site, 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 on the Commission's Web site, while the material in the political file as of July 1, 2014, if not placed on 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 noncommercial educational station that is not required to place its political file on the Commission's Web site 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. 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 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 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) The Commission will automatically link the following items to the electronic version of all licensee and applicant public inspection files, to the extent that the Commission has these items electronically: Authorizations; applications; contour maps; ownership reports and related materials; portions of the Equal Employment Opportunity file held by the Commission; and ''The Public and Broadcasting''.

* * * * *

■ 6. Amend § 73.3580 by revising paragraphs (d)(4)(i) introductory text and script and (d)(4)(ii) introductory text and script 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 Communications 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 during our regular business hours. 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's public inspection file*) 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 Communications 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 on 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 during our regular business hours. 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's public inspection file*) or may be obtained from the FCC, Washington, DC 20554.

* * * * *

[FR Doc. 2012–11065 Filed 5–10–12; 8:45 am]

BILLING CODE 6712–01–P