

## SUPPORTING STATEMENT

### A. Justification:

1. **FCC Form 302-TV** is used by licensees and permittees<sup>1</sup> of TV broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of these stations.

**FCC Form 349** is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in the existing facilities of such stations. This form also includes the third party disclosure requirement of 47 CFR Section 73.3580 (3060-0031). Section 73.3580 requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

**FCC Form 340** is used by licensees and permittees to apply for authority to construct a new noncommercial educational (NCE) FM, TV, and Digital TV (DTV) broadcast station,<sup>2</sup> or to make changes in the existing facilities of such a station. The FCC Form 340 is only used if the station will operate on a channel that is reserved exclusively for noncommercial educational use, or in the situation where applications for NCE stations on non-reserved channels<sup>3</sup> are mutually exclusive<sup>4</sup> only with one another.

For existing authorized analog stations to receive authorization for commencement of DTV operation, noncommercial educational broadcast licensees operating on a reserved channel must file FCC Form 340 for a construction permit. This application may be filed anytime after receiving the initial DTV channel allotment,<sup>5</sup> but must be filed before the mid-point in a particular applicant's

---

<sup>1</sup> A "permittee" is a party that has received a construction permit for a broadcast station. Once the permittee has constructed the station facilities according to the construction permit, it will file an application for a broadcast license. When the license application is granted, the permittee becomes a "licensee."

<sup>2</sup> These stations are licensed to nonprofit educational organizations for use in the advancement of educational programs.

<sup>3</sup> These channels are not reserved exclusively for noncommercial educational use, and for which commercial entities could be eligible to operate full power stations. Such channels appear without an asterisk designation in the FM Table of Allotments (§73.202) and TV Table of Allotments (§73.606).

<sup>4</sup> Mutually exclusive applications are those that either cause or receive prohibited contour overlap with other window-filed applications, thus preventing grant of more than one application.

<sup>5</sup> Digital TV refers to any technology that uses digital techniques to provide advanced television services such as high definition TV (HDTV), multiple standard definition TV (SDTV) and other advanced features and services. The terms "frequency" or "channel" generally refers to the 6 MHz spectrum block currently used to

**Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349**

required construction period. The Commission will consider these applications as minor changes in facilities. Applicants do not have to supply full legal or financial qualification information. In addition, applicants for a newly allotted DTV channel reserved for noncommercial educational use(s) must also file the FCC Form 340. This form also includes the third party disclosure requirement of 47 CFR Section 73.3580 (3060-0031). This section requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

**Revised Information Collection Requirement:**

On November 3, 2006, the Commission adopted the *Report and Order* (“R&O”), *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, MB Docket 05-210, FCC 06-163. In this R&O, the Commission extended to noncommercial educational FM licensees and permittees the same ability to request changes of community of license<sup>6</sup> by first come-first served minor modification application procedures,<sup>7</sup> as was being granted to other commercial full-service AM standard band and FM licensees and permittees. Previously, because a change in an NCE station’s community of license was considered a major modification in the station’s facilities, an NCE applicant had to await the opening of an announced NCE new and major change application filing window before filing. Furthermore, filing on a first-come first-served basis will significantly reduce the risk of application mutual exclusivity. Thus, the Commission proposes to revise FCC Form 340 to accommodate NCE applicants who seek to change their NCE station’s community of license by minor modification application.

Specifically, the Commission revises the FCC Form 340 to reflect the requirement that NCE applicants employing this procedure must include an exhibit demonstrating that the proposed community of license change comports with the fair, efficient and equitable distribution of radio service policies under Section 307(b) of the Communications Act of 1934, as amended.<sup>8</sup> NCE applicants proposing a change in community of license must provide Section 307(b) information

---

provide a single National Television System Committee (NTSC) television service or to the equivalent 6 MHz spectrum block to be used for DTV services.

<sup>6</sup> Every broadcast station is permitted or licensed to a designated community, the needs and interests of which the station primarily serves. The station is required to place a signal of a certain strength over the community of license and is required to provide programming to serve its community of license. See, e.g., 47 U.S.C. § 307(b).

<sup>7</sup> The Commission’s rules define those applications that are deemed to propose a major modification to a station’s facilities. All other proposed changes are considered minor modifications. Applications for minor modifications may be filed at any time, unless restricted by the Commission.

<sup>8</sup> Section 307(b) requires that the Commission effect a fair, efficient, and equitable distribution of radio stations throughout the United States.

**OMB Control Number: 3060-0029**

**January 2007**

**Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349**

demonstrating the merits of locating the station in the new community, as opposed to the former community of license. In addition, applicants proposing such a community of license change shall provide local public notice as set forth in 47 CFR Section 73.3580(e). **(The Commission is requesting OMB approval for this collection of information and form revision).**

FCC Forms 302-TV and 349 remain unchanged.

**History:**

On April 4, 2000, the Commission adopted a *Report and Order, In the Matter of Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31. This *Report and Order* adopted new procedures to select among competing applicants for noncommercial educational (NCE) broadcast channels. Among other things, this *Report and Order* instituted a point system to compare objective characteristics whenever there are competing applications for NCE stations. FCC Forms 340 and 349 were revised to incorporate these newly adopted procedures.

Most applicants who had filed mutually exclusive NCE proposals for the reserved band were required to supplement or settle their proposals by 2001. A small number of these applicants remain, who were never subject to this requirement. These applicants are required to supplement their FCC Form 340 and 349 applications.

On October 22, 1998, the Commission adopted *Report and Orders*, MM Docket Nos. 98-43 (*1998 Biennial Regulatory Review - Streamlining of Mass Media Applications, Rules, and Processes*) and 94-149 (*Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*), FCC 98-281. Among other things, these *Report and Orders* substantially revised FCC Forms 302-TV and 340 to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical box. The Commission also deleted and narrowed overly burdensome questions.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

2. **FCC Form 302-TV** - the data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit and to update FCC station files. Data is then extracted from FCC 302-TV for inclusion in the subsequent license to operate the station. The Commission reviews these “one-step” applications to ensure that the minor changes made by the

**Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349**

station will not have any significant impact on other stations and the public.

**FCC Form 340** - the data is used by FCC staff to determine whether the applicant meets basic statutory requirements to become a Commission licensee and to ensure that the public interest would be served by grant of the application. In the case of mutually exclusive qualified applicants, the information will be used to determine which proposal would best serve the public interest.

**FCC Form 349** - the data is used by FCC staff to ensure that the applicant meets basic statutory requirements and will not cause interference to other licensed broadcast services. In the case of mutually exclusive qualified applicants, the information will be used to determine which proposal would best serve the public interest.

3. These forms are required to be filed electronically. Paper versions of these forms are accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Waivers are not routinely granted, and filers should plead with particularity the facts and circumstances warranting grant of a waiver.
4. This agency does not impose a similar information collection on the respondents. There are no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The Commission has limited the information requirements to those that are absolutely necessary for evaluating and processing the applications to determine the community having the greater need and to deter possible abuses of the processes. Therefore, the information collection does not have a significant economic impact on a substantial number of small entities/businesses.
6. The frequency for filing is determined by the respondents, as necessary.
7. This collection of information is consistent with 5 CFR § 1320.5(d)(2).
8. The Commission published a Notice (71 FR 67581) in the *Federal Register* on November 22, 2006. No comments were generated as a result of the Notice.
9. No payment or gift is provided to the respondents.
10. There is no need for confidentiality.
11. This collection of information does not address any private matters of a sensitive nature.

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349

12. The Commission now estimates the annual paperwork burden for this information collection as follows:

<u>Applications</u>	<u>Number of Forms</u>	<u>Respondent's Burden</u>	<u>Total Annual Burden Hours</u>	<u>Hourly In-House Cost</u>	<u>Annual In-House Cost</u>
<b><u>FCC Form 302-TV</u></b>					
Construction Permits	100 <sup>9</sup>	1 hour	100 hours	\$33.65	\$ 3,365.00
	100	0.5 hours <sup>10</sup>	50 hours	\$33.65	\$ 1,682.50
	100	0.5 hours <sup>11</sup>	50 hours	\$33.65	\$ 1,682.50
Modifications	100 <sup>12</sup>	2 hours	200 hours	\$33.65	\$ 6,730.00
	100	0.5 hours <sup>13</sup>	50 hours	\$33.65	\$ 1,682.50
	100	0.5 hours <sup>14</sup>	50 hours	\$33.65	\$ 1,682.50

**FCC Form 340 (Revised Burden\*)**

FM New & Major	1,000	4 hours	4,000 hours	\$33.65	\$134,600.00
FM Minor Change	300	2 hours	600 hours*	\$33.65	\$ 20,190.00
TV Minor Change	25	2 hours	50 hours	\$33.65	\$ 1,682.50
DTV	260	2 hours	520 hours*	\$33.65	\$ 17,498.00

<sup>9</sup> These 100 applications represent a total of 100 Construction Permit (CP) applications.

<sup>10</sup> The respondent will consult with an engineer for 0.50 hours to review information on FCC Form 302-TV.

<sup>11</sup> The respondent will consult with an attorney for 0.50 hours to review information on FCC Form 302-TV.

<sup>12</sup> These 100 applications represent a total of 100 modifications of license applications.

<sup>13</sup> The respondent will consult with an engineer for 0.50 hours to review information on FCC Form 302-TV.

<sup>14</sup> The respondent will consult with an attorney for 0.50 hours to review information on FCC Form 302-TV.

OMB Control Number: 3060-0029

January 2007

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349

**FCC Form 349**

Commercial	700 <sup>15</sup>	1.5 hours	1,050 hours	\$17.00 <sup>16</sup>	\$ 17,850.00
	700	1.5 hours	1,050 hours	\$30.00 <sup>17</sup>	\$ 31,500.00
Noncommercial	300 <sup>18</sup>	1.0 hours	300 hours	\$17.00 <sup>19</sup>	\$ 5,100.00
	<u>300</u>	1.0 hours	<u>300 hours</u>	\$30.00 <sup>20</sup>	<u>\$ 9,000.00</u>
<b>TOTALS:</b>	<b>2,785</b>		<b>8,370 hours</b>		<b>\$254,245.50</b>
	<b>(responses)</b>		<b>(Burden)</b>		<b>(In-house Cost)</b>

**Total Number of Annual Respondents: 2,785 respondents**

**Total Number of Annual Responses: 2,785 (responses)**

**Total Annual Burden Hours: 8,370 Hours**

**Total Annual "In-House" Cost: \$254,245.50**

**The annual burden was calculated based on the following data:**

**FCC Form 302-TV:**

We assume that the respondents would complete the general and legal portions of the form. Additionally, we assume that each respondent will contract with a consulting engineer to complete the engineering section of the application and also have a consulting attorney review and file FCC

<sup>15</sup> This number represents a total of 700 commercial applications.

<sup>16</sup> This figure represents the hourly salary of the station engineer.

<sup>17</sup> This figure represents the hourly salary of the in-house station attorney.

<sup>18</sup> This number represents a total of 300 noncommercial applications.

<sup>19</sup> This figure represents the hourly salary of the station engineer.

<sup>20</sup> This figure represents the hourly salary of the in-house station attorney.

**Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349**

Form 302-TV. We estimate that each respondent will spend approximately 30 minutes (0.5 hours) reviewing the application with the engineering and legal consultants. The respondent will have an average salary of \$70,000/year (\$33.65/hour).

**FCC Form 340:**

Respondents would contract with an attorney and a consulting engineer to complete the FCC Form 340. The time spent in consultation with these attorneys and consulting engineers will vary depending upon the application type. We estimate that the respondent would have an average salary of \$70,000/year (\$33.65/hour).

**FCC Form 349:**

We estimate that most applicants (respondents) will file FCC Form 349 to make repairs or other miscellaneous changes in the FM translator or FM booster station facility.

We assume that the average respondent would use engineers employed at the station (\$17/hour), and attorneys employed at the station (\$30/hour).

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

13. The annual cost burden to the respondents was calculated as follows:

<u>Applications</u>	<u>Number of Forms</u>	<u>Consultant's Burden</u>	<u>Total Annual Burden Hours</u>	<u>Hourly Consultant's Cost</u>	<u>Annual Cost Burden</u>
<b><u>FCC Form 302-TV</u></b>					
Construction Permits	100 <sup>21</sup>	2 hours	200 hours	\$150	\$ 30,000
	100	1 hour	100 hours	\$200	\$ 20,000
Modifications	100 <sup>22</sup>	6 hours	600 hours	\$150	\$ 90,000
	100	2 hours	200 hours	\$200	\$ 40,000
	100	---	---	\$250/fee	\$ 25,000

<sup>21</sup> These 100 applications represent a total of 100 Construction Permit (CP) applications.

<sup>22</sup> These 100 application represent a total of 100 modifications of license applications.

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349

**FCC Form 340 (Revised Cost\*)**\_\_\_\_\_

FM New & Major	1,000	67 hours	67,000 hours	\$150	\$10,050,000
	1,000	5 hours	5,000 hours	\$200	\$ 1,000,000
	1,000	4 publications	---	\$113.25/fee	\$ 453,000
FM Minor Change	300	67.5 hours	20,250 hours	\$150	\$3,037,500*
	300	5 hours	1500 hours	\$200	\$ 300,000*
TV Minor Change	25	67.5 hours	1,687.50 hrs.	\$150	\$ 253,125
	25	0.5 hours	12.5 hours	\$200	\$ 2,500
DTV	260	34 hours	8,840 hours	\$150	\$1,326,000*
	260	1 hour	260 hours	\$200	\$ 52,000*

**FCC Form 349**

Commercial	700	8 hours	5,600 hours	\$150	\$ 840,000
	700	1 hour	700 hours	\$200	\$ 140,000
	700	---	---	\$625/fee	\$ 437,500
	700	4 publications	---	\$113.25/fee	\$ 317,100
Noncommercial	300	12 hours	3,600 hours	\$150	\$ 540,000
	300	5.0 hours	1,500 hours	\$200	\$ 300,000
	300	4 publications	---	\$113.25/fee	\$ 135,900
<b>Total Cost Burden:</b>					<b>\$19,389,625</b>

**The data used to calculate the cost burden is as follows:**

**FCC Form 302-TV:** We assume that the respondent would use a consulting engineer to prepare the engineer portion of this form and have a consulting attorney to review the form for any legal issues and file it with the FCC. This consulting engineer is estimated to have an average salary of \$150/hour and the consulting attorney would charge approximately \$200/hour. In addition, an applicant must submit a \$250.00 application fee with each application for the TV License to cover



**Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349**

construction permits. Applications submitted for modifications to an existing license, which can be made without prior FCC approval, are not subject to the application filing fee(s).

**FCC Form 340:** We assume that the applicant will contract with an attorney (\$200/hour) and a consulting engineer (\$150/hour) to complete the FCC Form 340. Additionally, a FM or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost of this publication is estimated to be \$113.25/publication.

**FCC Form 349:** We assume that the average respondent would contract with consulting engineers (\$150/hour) and attorneys in a law firm (\$200/hour) to complete their applications. A respondent for a commercial station must also submit a fee (\$625/application) with the filing of FCC 349. Additionally, an applicant must give local public notice of the filing of its application for construction permit. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The Commission estimates the cost of this publication is estimated to be \$113.25 per publication.

14. The total cost to the Federal Government was calculated as follows:

**FCC Form 302-TV -**

3 hours x \$30.25/hour x 100 applications =	\$ 9,075.00
1 hour x \$16.50/hour x 100 applications =	<u>\$ 1,650.00</u>
	\$10,725.00

**FCC Form 340 -**

FM New and Major Applications:

Clerical	1.5 hours x \$16.50/hour x 1,000 =	\$ 24,750.00
Paraprofessional	7.0 hours x \$30.25/hour x 1,000 =	\$ 211,750.00
Professional	36.9 hours x \$50.95/hour x 1,000 =	<u>\$1,880,055.00</u>
		\$2,116,555.00

FM Minor Change:

Clerical	2.0 hours x \$16.50/hour x 300 =	\$ 9,900.00
Paraprofessional	6 hours x \$30.25/hour x 300 =	\$ 54,450.00
Professional	25 hours x \$50.95/hour x 300 =	<u>\$382,125.00</u>
		\$446,475.00

TV Minor Change/DTV Applications:<sup>23</sup>

Clerical	2 hours x \$16.50/hour x 285 =	\$ 9,405.00
Paraprofessional	6 hours x \$30.25/hour x 285 =	\$ 51,727.50

<sup>23</sup> These applications include 25 TV Minor Change Applications + 260 DTV Applications = 285 Applications.

OMB Control Number: 3060-0029

January 2007

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349

Professional	16 hours x \$50.95/hour x 285 =	<u>\$232,332.00</u>
		\$293,464.50

**FCC Form 349 -**

700 commercial applications x 1 hour x \$16.50 =	\$ 11,550.00
700 commercial applications x 4 hours x \$50.95 =	\$142,660.00
300 noncommercial applications x 1 hour x \$16.50 =	\$ 4,850.00
300 noncommercial applications x 6 hours x \$50.95 =	<u>\$ 91,710.00</u>
	\$250,870.00

Totals: \$10,725.00 + \$2,116,555.00 + \$446,475.00 + \$293,464.50 + \$250,870.00  
= \$3,118,089.50

30% overhead = \$935,426.85

**Total Cost to Federal Government = \$4,053,516.30**

**The following data was used to calculate the total cost to the Federal Government:**

**\*FCC Form 302-TV** - The Commission will use paraprofessional and professional staff at the GS-11, step 5 level (\$30.25/hour), and clerical staff at the GS-5/Step 5 level (\$16.50/hour) to process the FCC 302-TV.

**\*FCC Form 340** - The Commission will use professional staff at the GS-14, step 5 level (\$50.95/hour), paraprofessional staff at the GS-11, step 5 level (\$30.25/hour) and clerical staff at the GS-5, step 5 level (\$16.50/hour) to process these applications.

**\*FCC Form 349** - The Commission will use professionals at the GS-14, step 5 level (\$50.95/hour) and clerical personnel at the GS-5, step 5 level (\$16.08/hour) to process these applications.

15. On November 3, 2006, the Commission adopted the *Report and Order, Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, MB Docket 05-210, FCC 06-163. The *Report and Order* impacts on this information collection by permitting NCE applicants to employ first come first served minor modification application procedures to request changes in an NCE station's community of license. Therefore, the rulemaking added a program change to the total annual burden hours of +260 hours and to the total annual burden cost of +1,549,625. There are no adjustments to this information collection.

16. The Commission does not intend to publish this data.

**OMB Control Number: 3060-0029**

**January 2007**

**Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349**

17. The Commission requests an extension of the waiver not to publish the expiration date on FCC Forms 302-TV, 340 and 349. This waiver will obviate the need to update electronic files upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR 0.408.

18. The Commission made an error in its initial 60-day Federal Register Notice. The total annual cost is "\$19,389,625" instead of "\$19,253,725." Also, there is no recordkeeping requirement included in this information collection. There are no other exceptions to Item 19 of the Certification Statement.

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

This information collection does not employ any statistical methods.