

**Title: Informal Requests to Discontinue Only One Service and Informal Requests to Flash Cut; Section 73.3538, Application To Make Changes in an Existing Station, Section 73.1690(e) Modification of Transmission Systems**

**SUPPORTING STATEMENT**

**A. Justification:**

1. 47 CFR Section 73.3538, **Application to Make Changes in an Existing Station.** Section 73.3538(b)(1) of the Commission's rules requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.<sup>1</sup> **(This is an existing filing requirement and remains unchanged).**

**REVISED INFORMATION COLLECTION REQUIREMENTS:**

Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals.<sup>2</sup> On December 31, 2007, the Commission adopted a Report and Order (R&O), In the Matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-228, to establish the rules, policies and procedures necessary to complete the nation's transition to Digital Television (DTV). With the DTV transition deadline less than 14 months away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility<sup>3</sup> on their final, post-transition (digital) channel<sup>4</sup> that will reach viewers in their authorized service areas by the

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<sup>1</sup>The requirement to file an informal application to relocate the main studio outside the principal community contour has approval under Section 73.1125; 47 CFR § 73.1125 (see OMB Control No. 3060-0171).

<sup>2</sup>See Digital Television and Public Safety Act of 2005 ("DTV Act"), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) ("DRA") (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)). DTV Act § 3002(a) amends Section 309(j)(14) of the Communications Act to establish February 17, 2009 as a new hard deadline for the end of analog transmissions by full-power TV stations. 47 U.S.C. § 309(j)(14)(A). DTV Act § 3002(b) directs the Commission to "take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and (2) to require by February 18, 2009, ... all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive)." 47 U.S.C.A. § 309 Note.

<sup>3</sup>A station's "post transition facilities" refers to the details of each station's assignment, including technical facilities and predicted service and interference information.

<sup>4</sup>A station's "post-transition channel" is the television channel that it will use for digital broadcasting after the transition deadline (i.e., February 17, 2009). The Commission proposed channel assignments and reference facilities for stations' post-transition operations in a 2006 Notice of Proposed Rule Making in MB Docket No. 87-268. See *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MB Docket No. 87-268, Seventh Further Notice of Proposed Rule Making, 21 FCC Rcd 12100 (2006) ("Seventh FNPRM"). The Seventh FNPRM sets forth a channel for each eligible broadcast TV station in the proposed new DTV Table of Allotments, to be codified at 47 C.F.R. § 73.622(i).

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statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition.

The adoption of the final rules in the R&O allow stations to file informal request to discontinue only one service or “flash cut” with Commission for analog TV service prior to the end of the DTV transition. To obtain such approval from the Commission, the final rules allow stations to make such requests by sending a letter to the Video Division of the Media Bureau and sending an e-mail to [analog@fcc.gov](mailto:analog@fcc.gov) in lieu of filing an application for construction permit (e.g., Form 301 or Form 340)<sup>5</sup> in order to modify an existing station’s paired license<sup>6</sup> by discontinuing existing analog TV service or discontinuing existing DTV service by obtaining “flash cut”<sup>7</sup> approval from the Commission. These are non-rule requirements. **(The Commission submitted these information collection requirements to OMB at the NPRM stage. The Commission is now requesting final approval for these requirements from OMB now that the final rules have been adopted by the Commission. The requirements are adopted in the final rules as proposed in the NPRM – no changes have occurred for these requirements).**

The Commission also sought OMB approval for flash cut requests filed pursuant to the Commission’s Report and Order in the Second DTV Periodic Review proceeding, MB Docket No. 03-15,<sup>8</sup> and the Media Bureau’s Flash Cut Public Notice.<sup>9</sup> Such approval will reduce burdens on broadcasters by permitting them to file an informal letter and email in lieu of a formal construction permit application (FCC Forms 301 and 340). **(OMB approval is needed**

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<sup>5</sup>Normally, a station would be required, pursuant to 47 C.F.R. §§ 73.1690(b) and 73.3538, to request authority to construct or modify an analog TV or Digital TV (“DTV”) broadcast station by filing an FCC Form 301 application (for commercial stations) or an FCC Form 340 application (for noncommercial educational or “NCE” stations). This would include a request to discontinue operations of only one service of a station’s paired license. OMB approval for the filing of FCC Form 301 is contained in OMB Control No. 3060-0027; and OMB approval for the filing of FCC Form 340 is contained in OMB Control No. 3060-0029.

<sup>6</sup>Most full-power TV broadcast stations received a second or “paired” channel to use during the transition to DTV in order to provide both analog and digital TV service. By statute, full-power television broadcast stations must cease their analog transmissions as of the DTV transition date (i.e., February 17, 2009); 47 U.S.C. § 309(j)(14).

<sup>7</sup>The term “flash cut” refers to a station that gives up its existing DTV channel (or “pre-transition” channel) and transitions to digital service either on its analog channel or on a newly allotted channel. Only stations that will use a different DTV channel for operations after the transition than which they are currently assigned may request such approval.

<sup>8</sup>See *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15, Report and Order, 69 FR 59500 (October 4, 2004) (“*Second DTV Periodic Report and Order*”). Upon the appropriate showing, the *Second DTV Periodic Review Report and Order* allowed certain stations to flash cut: (1) satellite stations and (2) stations with out-of-core DTV channels, provided the station demonstrated that grant of the request would not result in the loss of a DTV channel affiliated with one of the four largest national television networks (ABC, CBS, NBC, or Fox).

<sup>9</sup>See Public Notice, “DTV Transition – Approval of ‘Flash-Cut’ Requests,” DA 07-1847 (MB rel. April 25, 2007). This Public Notice invited a station to flash cut if such station could show that it meets the criteria established in the *Second DTV Periodic Report and Order*.

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**for these requirements).**

**47 CFR Section 73.1690(e) Modification of transmission systems.** Section 73.1690(e) of the Commission's rules requires AM, FM and TV station licensees to prepare an informal statement or diagram describing any electrical and mechanical modification to authorized transmitting equipment that can be made without prior Commission approval provided that equipment performance measurements are made to ensure compliance with FCC rules.<sup>10</sup> This informal statement or diagram must be retained at the transmitter site as long as the equipment is in use. The Commission will submit an 83-D Form to discontinue information collection 3060-0374 once OMB approval is obtained for this information collection (3060-0216), which is being revised due to consolidation. **(This is an existing requirement and remains unchanged. This requirement is approved under OMB Control Number 3060-0374, but is being consolidated into this collection. Therefore, the consolidation needs OMB approval).**

**HISTORY:**

On April 25, 2007, the Commission adopted a Notice of Proposed Rulemaking (NPRM), In the Matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07-91, FCC 07-70*, to consider the procedures and rule changes necessary to complete the nation's transition to DTV, including how best to ensure that broadcasters complete construction of their facilities<sup>11</sup> on their final, post-transition (digital) channel<sup>12</sup> by the statutory deadline.

On February 14, 2001, the Commission adopted a Report and Order in MM Docket No. 93-177, *In the Matter of An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification*. This Report and Order relaxed the technical requirements for AM stations using directional antennas. Among other things, this Report and

Order eliminated the need to file an informal application to specify new AM station directional antenna field monitoring points.

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<sup>10</sup> The requirements contained in Section 73.1690(e) are included in the approvals for Sections 73.1125 (see OMB Control No. 3060-0171) and Section 73.68 (see OMB Control No. 3060 0321).

<sup>11</sup> A station's "post transition facilities" refers to the details of each station's assignment, including technical facilities and predicted service and interference information.

<sup>12</sup> A station's "post-transition channel" is the television channel that it will use for digital broadcasting after the transition deadline (i.e., February 17, 2009). The Commission proposed channel assignments and reference facilities for stations' post-transition operations in a 2006 Notice of Proposed Rule Making in MB Docket No. 87-268. See *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MB Docket No. 87-268, Seventh Further Notice of Proposed Rule Making, 21 FCC Rcd 12100 (2006) ("Seventh FNPRM"). The Seventh FNPRM sets forth a channel for each eligible broadcast TV station in the proposed new DTV Table of Allotments, to be codified at 47 C.F.R. § 73.622(i).

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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(r), 308, 309(j), 337(e) of the Communications Act of 1934, as amended.

2. For informal requests to discontinue only one service or “flash cut,” the data is used by FCC staff to determine whether the applicants meet basic statutory requirements and to ensure that the DTV transition and overall public interest would be served by the discontinuance of service.

For Section 73.1690(e), the data is used by broadcast licensees to provide prospective users of the modified equipment with necessary information. If no such information exists, any future problems could prove difficult to solve and could result in electronic frequency interference for long periods of time.

For Section 73.3538, the data is used by FCC staff to ensure that the modification or discontinuance of the obstruction marking or lighting will not cause a menace to air navigation.

3. Filers for informal requests to discontinue only one service or “flash cut” are being allowed to use email to make such requests. This is the only requirement which we believe the use of information technology is feasible.

4. No other agency imposes a similar information collection on the respondents. There is no similar data available.

5. The Commission is making an effort to minimize the burden on all respondents. For example, the Commission has minimized the burden on the respondents by only requiring a letter and email be sent by stations making informal requests to discontinue only one service or “flash cut,” instead of requiring the more burdensome formal application process. In addition, the Commission has minimized the burden on the respondents filing informal statements or diagrams pursuant to 47 CFR 73.1690(e), by only requiring that equipment performance measurements be made and kept at the transmitter site instead of requiring the more lengthy and burdensome formal application process. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities/businesses.

6. For informal requests to discontinue only one service or “flash cut,” the frequency for this filing requirement is determined by respondents, as necessary. For Section 73.1690(e), the frequency for this recordkeeping requirement is determined by respondents, as necessary. The information will provide prospective users of the modified equipment with necessary information to correct any

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future problems with the transmitting equipment. If no such information exists, any future problems with the transmitting equipment could prove difficult to solve and could result in electronic frequency interference for long periods of time. For Section 73.3538, the frequency for filing is determined by respondents, as necessary. If this information was not collected the modification or discontinuance of the obstruction marking or lighting of an antenna supporting structure could cause a menace to air navigation.

7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).
8. The Commission published a Notice (72 FR 37310) in the Federal Register on July 9, 2007 seeking public comment on the information collection requirements contained in this collection. No comments were generated as a result of the Notice.
9. No payment or gift was provided to respondents.
10. There is no need for confidentiality.
11. This information collection does not address any private matters of a sensitive nature.
12. The public burden is as follows:

**Burden for Informal requests:** We estimate that 50 informal requests (letters or e-mails) will be filed to discontinue analog service with an average burden on the licensee of 0.50 hour. This filing is completed by the staff attorney.

**Number of Annual Respondents: 50 Full power TV broadcast stations**

**Number of Annual Responses: 50 letters/emails**

**Annual Burden Hours:** 50 informal requests x 0.50 hour/request = **25 hours**

**Annual "In-House" Cost:** We estimate that the staff attorney will have an average salary of \$100,000/year (\$48.08/hour).

50 informal request x 0.50 hours/request x \$48.08/hour = **\$1,202.00**

**Burden for Section 73.1690(e):** We estimate 600 respondents (300 AM, 200 FM and 100 TV)

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broadcast licensees will perform electrical or mechanical modifications on their transmitting equipment that will require conformance with the recordkeeping requirement of Section 73.1690. The average burden on licensees of an AM station is 3 hours and the average burden on licensees of an FM and TV station is 0.5 hours.

**Number of Respondents: 600 AM, FM and TV Broadcast Licensees**

**Number of Responses: 600 recordkeeping requirements/informal statements**

**Annual Burden Hours:**

300 AM stations x 3 hours = 900 hours  
100 TV stations x 0.5 hours = 50 hours  
200 FM stations x 0.5 hours = 100 hours  
**Annual Burden Hours: 1,050 hours**

**Annual "In-House" Cost:** We assume that an engineer at the station would perform the equipment performance tests and prepare the informal statement or diagram. We estimate that an AM and FM station engineer would have an hourly salary of \$22/hour. We also estimate that a TV station engineer would have an hourly salary of \$25/hour.

\$22/hour x 300 AM stations x 3 hours = \$19,800  
\$25/hour x 100 TV stations x 0.5 hours = \$ 1,250  
\$22/hour x 200 FM stations x 0.5 hours = \$ 2,200  
**Annual "In-house" Cost: \$23,250**

**Burden for Section 73.3538:** We estimate that 50 informal applications will be filed to modify or

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discontinue the obstruction marking or lighting of an antenna supporting structure with an average burden on licensee of 1.0 hours. This filing is also done at respondent's request and frequency. We assume that the licensee will prepare the informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure.

**Number of Annual Respondents: 50 Broadcast Stations**

**Number of Annual Responses: 50 Informal Applications**

**Annual Burden Hours:** 50 informal applications x 1 hour/application = **50 hours**

**Annual "In-House" Cost:** We estimate that a licensee will have an average salary of \$70,000/year (\$33.65/hour).

50 informal applications x 1 hour x \$33.65/hour = **\$1,682.50**

**Total Number of Annual Respondents: 700 Broadcast Stations/Licensees**

**Total Number of Annual Responses: 700 informal requests/informal statements**

**Total Annual Burden Hours: 1,125 Hours**

**Total Annual "In-House" Cost: \$26,134.50**

**13. Annual Cost Burden:**

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost required: None

14. Cost to the Federal Government. The Commission will use paraprofessional staff at the GS-11,

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step 5 (\$30.25/hour) to process the informal applications and requests.

**Total Cost to the Federal Government:**

100 applications/requests<sup>13</sup> x 2.0 hrs x \$30.25/hour = **\$6,050.00**

15. On December 31, 2007, the Commission adopted a Report and Order in the matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-228, to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. This program change will increase the annual burden by 25 hours. There is also an adjustment to this information collection due to the consolidation of OMB Control Number 3060-0374 into collection 3060-0216 of 1,050 hours.

16. The data will not be published.

17. OMB approval of the expiration date of the information collection will be displayed at 47 C.F.R. Section 0.408.

18. There are no exceptions to the Certification Statement in Item 19.

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

No statistical methods are employed.

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<sup>13</sup>These 100 informal applications/requests include applications/requests filed pursuant to requests to discontinue only one service of a paired license and requests to "flash cut." These applications also include applications filed pursuant to Section 73.3538.