

SUPPORTING STATEMENT

A. Justification:

1. This submission is necessary in the event that the change in the nationwide DTV Transition date is enacted into law. On February 5, 2009, the United States Congress passed legislation, known as the “DTV Delay Act,” that would extend the date for the completion of the DTV transition from February 17, 2009, to June 12, 2009.¹ This submission will cover information collection requirements through the new transition date (June 12, 2009 or whatever final DTV Transition date is ultimately established by Congress and enacted into law) and, where required by FCC Order, a specified amount of time after such date. This submission applies only if the DTV Delay Act is enacted into law.

On December 23, 2008 the President signed the Short-term Analog Flash and Emergency Readiness Act (“Analog Nightlight Act” or “Act”), enacting it into law. The Act requires the Commission to develop and implement a program by January 15, 2009, to “encourage and permit” continued analog TV service after the February 17, 2009 DTV transition date, where technically feasible, for the purpose of providing “public safety information” and “DTV transition information” to viewers who may not obtain the necessary equipment to receive digital broadcasts after the transition date. The statute imposes a deadline of January 15, 2009. Specifically, the Commission must establish a program that will allow full power television stations (at their option) to continue to provide analog service for a period of 30 days after the digital transition deadline of June 12, 2009² for the sole purposes of offering public safety and digital transition information.

The Commission adopted and released a Notice of Proposed Rulemaking (NPRM) on December 24, 2008, In the Matter of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition “Analog Nightlight” Program, MB Docket No. 08-255, FCC 08-281. The NPRM requires stations that have been “pre-approved” to participate in the Analog Nightlight Program (i.e., listed on the Appendix A to the NPRM) must file a notification with the Commission. These stations must file a Legal STA electronically through the Commission’s Consolidated Database System (“CDBS”) using the Informal Application filing form. These notifications are necessary so that we can determine where the Analog Nightlight service will be available and also to establish the source of any unanticipated interference to a digital station in the area. Notifications should be filed as soon as possible and must be filed no later than February 10, 2009.

Stations not listed on the Appendix A to the NPRM may nonetheless request to participate in the Analog Nightlight Program by filing an Engineering STA notification electronically through CDBS using the Informal Application filing form. In addition, to hasten the process and expand the pool of eligible participants, broadcasters whose stations are not listed in Appendix A to this Notice that believe they are nevertheless eligible to participate may file comments in this proceeding demonstrating their eligibility to participate in the program. To ensure that these requests are properly recorded, stations filing comments

¹ See DTV Delay Act, S. 352, 111th Cong. (January 29, 2009). The DTV Delay Act, passed by the United States Senate on January 29, 2009, was adopted by the United States House of Representatives yesterday and is being sent to the President for his signature to be enacted into law.

² This submission will cover any future date extensions that occur for this collection due to the DTV transition.

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February 2009

Title: Special Temporary Authorization (STA) Requests, Section 47 CFR 73.1635; Notifications, Section 47 CFR 73.1615; and Informal Filings, Section 47 CFR Part 73.

should also file a notification through the Engineering STA process. If there are objections to these notifications, they can be filed as reply comments in this docket. In order to afford an opportunity for public consideration of these Engineering STA notifications, stations must file no later than February 3, 2009. This timing will allow the Commission, the public and other interested parties an opportunity to review and evaluate these requests. The Media Bureau will announce by Public Notice those stations that have filed a request to participate in the program. Before June 12, 2009³, stations with requests that are not subject to any pending objection will be considered eligible to participate in the program. Nevertheless, participating stations must immediately stop broadcasting Analog Nightlight operations upon any valid complaints of interference to DTV stations or other statutorily protected operations.

These requirements are also approved under this information collection and have not changed since last approved by OMB:

STA for Phased Transition and Continued Interim Operations. Stations may file a request for Special Temporary Authorization (STA) approval to temporarily remain on their in-core, pre-transition DTV channel after the transition date through the CDBS using the Informal Application Filing Form.

STA for Phased Transition / Build-Out. Stations may file a request for STA approval to build less than full, authorized post-transition facilities by the transition date through the CDBS using the Informal Application Filing Form.

STA for Permanent Service Reduction or Termination. Stations may file a request for STA approval to permanently reduce or terminate analog or pre-transition DTV service where necessary to facilitate construction of final, post-transition facilities through the CDBS using the Informal Application Filing Form.

Notification/Informal Letter of Temporary Service Disruption. Stations may file a notification or informal letter pursuant to Section 73.1615 to temporarily reduce or cease existing analog or pre-transition DTV service where necessary to facilitate construction of final, post-transition facilities through the CDBS using the Informal Application Filing Form.

Notification of Service Reduction or Termination. Stations may file a notification to permanently reduce or terminate analog or pre-transition DTV service within 90 days of the transition date through the CDBS using the Informal Application Filing Form.

³ This submission will cover any future date extensions that occur for this collection due to the DTV transition.

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Informal Filings. Stations claiming a “unique technical challenge” (as defined in the Report and Order)⁴ warranting a February 17, 2009 construction deadline may file a notification to document their status through the CDBS using the Informal Application Filing Form.

Notifications, 47 CFR 73.1615. Broadcast stations (AM, FM, TV or Class A TV licensees or permittees) must file a notification under 47 CFR 73.1615(c) when such a station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service for a period not more than 30 days. Licensees or permittees of directional or nondirectional FM, TV or Class A TV or nondirectional AM must file a notification and comply with 47 CFR 73.1615(a). Licensees or permittees of a directional AM station whose modification does not involve a change in operating frequency must file a notification and comply with 47 CFR 73.1615(b). Licensees or permittees of a directional AM station whose modification

does involve a change in frequency and determines it is necessary to discontinue operation for a period not more than 30 days must file a notification and comply with 47 CFR 73.1615(d)(2).

Informal Filings, 47 CFR 73.1615. Broadcast stations (AM, FM, TV or Class A TV licensees or permittees) must file an informal letter request under 47 CFR 73.1615(c)(1) when such a station is in the process of modifying existing facilities pursuant to 47 CFR 73.1615(a) or (b) and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service for a period of more than 30 days. Licensees or permittees of a directional AM station whose modification does involve a change in frequency and determines it is necessary to operate with temporary facilities must file an informal letter request and comply with 47 CFR

47 CFR 73.1615(d). Licensees or permittees that filed notifications under 47 CFR 73.1615(d)(2) but which determine that it is necessary to discontinue operation for a period more than 30 days must file an informal letter request and comply with 47 CFR 73.1615(d)(1) and (2).

47 CFR 73.1635 states the broadcast stations (licensees or permittees) may file a request for STA approval to permit a station to operate a broadcast facility for a limited period at a specified variance from the terms of the station’s authorization or requirements of the FCC rules. Stations may file a request for STA approval for a variety of reasons. The request must describe the operating modes and facilities to be used.

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 1, 4(i) and (j), 7, 301, 302, 303,

⁴ As discussed in the Third DTV Periodic Report and Order, stations may face specific and unique technical challenges that would prevent them from meeting their deadline to construct final, post-transition facilities. Such challenges include stations that have a side-mounted digital antenna and top-mounted analog antenna and will need to install a top-mounted antenna for post-transition digital use, but cannot do so before the end of the transition because the tower cannot support the additional weight of third antenna, or face other circumstances in which the operation of a station’s analog service prevents the completion of construction of the station’s full, authorized post-transition facility, including stations whose local power company cannot provide sufficient electrical capacity to the tower site to power both analog and full power digital operations, and stations that do not have space at their antenna site for both analog and digital equipment.

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307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

2. The data is used by FCC staff to determine whether to grant and/or accept the requested special temporary authority (“STA”) (or other request for FCC action), the required notification, informal filing or other non-form submission.⁵ FCC staff will review for compliance with legal and technical regulations, including but not limited to ensuring that impermissible interference will not be caused to other stations.

3. All STA requests, notifications, informal filings and other “non-form” submissions *may* be filed electronically via the FCC’s Consolidated Database System (“CDBS”). These filings may also be filed by letter, but only if expressly authorized by rule or Commission approval.

For DTV Transition-related: All STA requests, notifications, informal filings and other “non-form” submissions related to the DTV transition *must* be filed electronically via CDBS. Stations may email courtesy copies of their STA requests, notifications, and informal filings to the appropriate email address: analogrequests@fcc.gov, dtvrequests@fcc.gov, or dtvnotifications@fcc.gov.

4. No other agency imposes a similar information collection on the respondents. There is 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 revised information collection requirements permit broadcasters to request and obtain regulatory flexibility from the Commission, if necessary, to meet their DTV construction deadlines. The requirements are only necessary should the station seek to obtain the benefit of one of the provisions for regulatory flexibility. Although these requirements will impose some costs on small broadcasters, they will also ensure that small broadcasters continue to retain their audiences after the transition by fully informing viewers of the steps necessary to keep watching. Small broadcasters rely completely on their viewing audience for their revenue stream, so this benefit should far outweigh any costs for this temporary requirement. Therefore, this collection of information will not have a significant economic impact on a substantial number of small entities/businesses.

6. Congress has mandated that after June 12, 2009, full -power broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. The Commission must ensure that, by the February 17, 2009 transition date, all full-power television broadcast stations (1) cease analog broadcasting and (2) complete construction of, and begin operations on, their final, DTV facility. Broadcasters may need regulatory flexibility in order to achieve these goals. Without these submissions, the Commission will not be able to determine eligibility for certain opportunities for regulatory flexibility. The frequency for this collection of information is determined by respondents, as necessary.

7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. The Commission filed a request with OMB to waive Federal Register notice seeking public comment for the new information collection requirements contained in this supporting statement

⁵ Generally, “non-form” filings are notifications or request filed with the Commission that are submitted by informal letter as opposed to a specific Commission form.

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due to short time frame provided for the Commission to act in the Analog Nightlight Act, and because PRA approval is needed to allow stations to make filings immediately.

9. No payment or gift was provided to the respondents.
10. There is no need for confidentiality with this collection of information.
11. This information collection does not address any private matters of a sensitive nature.
12. We make the following estimates for STA requests, notifications and informal filings.

a) STA Requests. We estimate that a total of 2,500 STA requests will be filed with the Commission annually. We estimate that 10% of these filings (or 250 filings) will be made by the station licensee/permittee without outside consultation and will require four (4) hours preparation, while 90% of these filings (or 2,250 filings) will be contracted out to outside attorneys and/or consulting engineers and will require one (1) hour of consultation with these outside parties.

b) Notifications. We estimate that a total of 1,060 notifications will be filed with the Commission annually. We estimate that 50% of these filings (or 530 notifications) will be made by the station licensee/permittee without outside consultation and will require 30 minutes (0.5 hours) preparation, while the other 50% of these filings (or 530 notifications) will be contracted out to outside attorneys and/or consulting engineers and will require one (1) hour consultation with these outside parties.

c) Informal Filings. We estimate that a total of 150 informal letters will be filed with the Commission annually. We estimate that 20% of these filings (or 30 informal letters) will be made by the station licensee/permittee without outside consultation and will require four (4) hours preparation, while 80% of these filings (or 120 filings) will be contracted out to outside attorneys and/or consulting engineers and will require one (1) hour consultation with these outside parties.

d) Legal STA Notifications Pursuant to the Analog Nightlight Program. We estimate that a total of 300 legal STA notifications will be filed with the Commission. We estimate that the licensee/permittee will file the notifications without outside consultation and will require 30 minutes (0.5 hours) preparation.

e) Engineering STA Notifications Pursuant to the Analog Nightlight Program. We estimate that a total of 400 notifications will be filed with the Commission. We estimate that 10% of these filings (or 40 notifications) will be made by the station licensee/permittee without outside consultation and will require 30 minutes (0.5 hours) preparation, while the remaining 90% of these filings (or 360 notifications) will be contracted out to outside attorneys and/or consulting engineers and will require one (1) hour consultation with these outside parties.

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Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents ⁶	Annual In-House Cost
12a. STA Requests (47 CFR § 73.1635)						
STA filed by Licensee/ Permittee	250	250	4 hrs	1,000 hrs	\$48.08	\$ 48,080.00
STA filed by outside engineer/attorney but will require the respondent to consult with outside parties regarding the filings	2,250	2,250	1 hr consultation	2,250 hrs	\$48.08	\$108,180.00
Total STA Requests	2,500	2,500		3,250 hrs		\$156,260.00
12b. Notifications (47 CFR Part 73)						
Rule 73.1615 Notifications filed by Licensee/ Permittee	530	530	0.5 hrs	265 hrs	\$48.08	\$12,741.20
Rule 73.1615 Notifications filed by outside engineer/attorney but will require the respondent to consult with outside parties regarding the filings	530	530	1 hr consultation	265 hrs	\$48.08	\$12,741.20
Total Notifications	1,060	1,060		530 hrs		\$25,482.40
12c. Informal Filings (47 CFR Part 73)						
Rule 73.1615 Informal Letters filed by Licensee/ Permittee	30	30	4 hrs	120 hrs	\$48.08	\$5,769.60
Rule 73.1615 Informal Letters filed by outside engineer/attorney but will require the respondent to consult with outside parties regarding the filings	120	120	1 hr consultation	120 hrs	\$48.08	\$5,769.60

⁶ This estimate is based on an average salary for a station manager of \$100,000 per year or \$48.08 per hour.

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Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Cost
Total Informal Filings	150	150		240 hrs		\$11,539.20
12d. Analog Nightlight Program Legal STA Notifications						
Analog Nightlight Program Legal STA Notifications filed by Licensee/Permittee	300	300	0.50 hrs	150 hrs	\$48.08	\$7,212.00
Total Analog Nightlight Program Legal STA Notifications	300	300		150 hrs		\$7,212.00
12e. Analog Nightlight Program Engineering STA Notifications						
Analog Nightlight Program Engineering STA Notifications filed by Licensee/Permittee	40	40	0.50 hrs	20 hrs	48.08	\$961.60
Analog Nightlight Program Engineering STA Notifications filed by outside engineer but will require the respondent to consult with outside parties regarding filings	360	360	1 hr	360 hrs	\$48.08	17,308.80
Total Analog Nightlight Program Engineering STA Notification Filings	400	400		380 hrs		\$18,270.40

Total Annual Number of Respondents and Responses: $2,500 + 1,060 + 150 + 300 + 400 = 4,410$

Total Annual Burden Hours: $3,250 \text{ hours} + 530 \text{ hours} + 240 + 150 + 380 = 4,550 \text{ hours}$ ⁷

Total Annual "In-House Cost" = $\$156,260 + \$25,482.40 + \$11,539.20 + \$7,212.00 + \$18,270.40 = \$218,764.00$

⁷ The extension date for the DTV transition from February 17, 2009 to June 12, 2009, or thereafter, does not impact the burden for this information collection. Filers will simply make their same filings, only by a later date.

13. ANNUAL COST BURDEN:

a) STA Requests. A contract consulting engineer and/or an attorney would prepare and submit the request for special temporary authority depending on the circumstances. We estimate that the average salary for a consulting engineer is \$150/hour and for the attorney is \$200/hour. Because these filings may be reviewed and/or filed by either or both an outside attorney or engineer consultant, we estimate the average salary to be \$175/hour. In addition, a licensee must submit a fee for each request by a commercial broadcast station for special temporary authority at \$160/request. We estimate that 86% of all requests filed will be for commercial stations (2,500 x 86% = 2,150 requests).

2,250 STA requests x \$175/hour x 1 hour =	\$3,393,750
2,150 STA requests x \$160 fee/ request =	<u>\$ 344,000</u>
Annual Cost Burden =	\$3,787,500

b) Notifications. A contract consulting engineer and/or an attorney would prepare and submit the notification depending on the circumstances. We estimate that the average salary for a consulting engineer is \$150/hour and for the attorney is \$200/hour. Because these filings may be reviewed and/or filed by either or both an outside attorney or engineer consultant, we estimate the average salary to be \$175/hour.

530 notifications x \$175/hour x 1 hour =	\$92,750
Annual Cost Burden =	\$92,750

c) Informal Filings. A contract consulting engineer and/or an attorney would prepare and submit the informal letter depending on the circumstances. We estimate that the average salary for a consulting engineer is \$150/hour and for the attorney is \$200/hour. Because these filings may be reviewed and/or filed by either or both an outside attorney or engineer consultant, we estimate the average salary to be \$175/hour. In addition, a licensee must submit a fee for each request by a commercial broadcast station for special temporary authority at \$150/request. We estimate that 86% of all requests filed will the Commission will be for commercial stations (150 x 86% = 129 requests).

120 informal letter requests x \$175/hour x 1 hour =	\$21,000
129 informal letter requests x \$160 fee / request =	<u>\$20,640</u>
Annual Cost Burden =	\$41,640

d) Analog Nightlight Program Legal STA Notifications. – No cost assessed. The respondent will prepare the notifications without outside assistance.

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- e) Analog Nightlight Program Engineering STA Notifications. A contract consulting engineer and/or an attorney would prepare and submit the notification depending on the circumstances. We estimate that the average salary for a consulting engineer is \$150/hour and for the attorney is \$200/hour. Because these filings may be reviewed and/or filed by either or both an outside attorney or engineer consultant, we estimate the average salary to be \$175/hour.

360 engineering STA notifications x \$175/hour x 1 hour = \$63,000

Total Annual Cost Burden = \$3,787,500 + \$92,750 + \$41,640 + \$63,000 = \$3,984,890⁸

14. Cost to the Federal Government:

a) STA Requests. We estimate the government will use legal and engineer staff at the GS-14, step 5 level (\$53.24/hour), paraprofessional staff at the GS-11, step 5 level (\$31.61/hour) and clerical staff at the GS-5, step 5 level (\$17.24/hour). We expect the processing for the STAs to take from 0.50 to 2 hours to process.

2,500 STAs x \$53.24 x 2 hours	=	\$266,200
2,500 STAs x \$31.61 x 2 hours	=	\$156,050
2,500 STAs x \$17.24 x 0.50 hour	=	<u>\$ 21,550</u>
Cost to the Federal Government:		\$443,800

b) Notifications. We estimate the government will use legal and engineer staff at the GS-14, step 5 level (\$53.24/hour), paraprofessional staff at the GS-11, step 5 level (\$31.61/hour) and clerical staff at the GS-5, step 5 level (\$17.24/hour). We expect the processing for the notifications to take from 0.50 to 1 hour to process.

1,060 notifications x \$53.24 x 1 hour	=	\$56,434.40
1,060 notifications x \$30.25 x 1 hour	=	\$33,496.00
1,060 notifications x \$17.24 x 0.50 hours	=	<u>\$ 9,137.20</u>
Cost to the Federal Government:		\$99,067.60

⁸ The extension date for the DTV transition from February 17, 2009 to June 12, 2009, or thereafter, does not impact the annual cost burden for this information collection.

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c) Informal Filings. We estimate the government will use legal and engineer staff at the GS-14, step 5 level (\$53.24/hour), paraprofessional staff at the GS-11, step 5 level (\$31.61/hour) and clerical staff at the GS-5, step 5 level (\$17.24/hour). We expect the processing for the informal filings to take from 0.50 to 2 hours to process.

150 STAs x \$53.24 x 2 hours =	\$15,972
150 STAs x \$31.61 x 2 hours =	\$ 9,483
150 STAs x \$17.24 x 0.50 hour =	<u>\$ 1,293</u>
Cost to the Federal Government:	\$26,748

d) Analog Nightlight Program Legal STA Notifications. We estimate the government will use legal and engineer staff at the GS-14, step 5 level (\$53.24/hour), paraprofessional staff at the GS-11, step 5 level (\$31.61/hour) and clerical staff at the GS-5, step 5 level (\$17.24/hour). We expect the processing for the notifications to take from 0.50 to 1 hour to process.

300 STA notifications x \$53.24 x 1 hour =	\$15,972
300 STA notifications x \$30.25 x 1 hour =	\$ 9,075
300 STA legal notifications x \$17.24 x 0.50 hours =	<u>\$ 2,586</u>
Cost to the Federal Government:	\$27,633

e) Analog Nightlight Program Engineering STA Notifications. We estimate the government will use legal and engineer staff at the GS-14, step 5 level (\$53.24/hour), paraprofessional staff at the GS-11, step 5 level (\$31.61/hour) and clerical staff at the GS-5, step 5 level (\$17.24/hour). We expect the processing for the notifications to take from 0.50 to 1 hour to process.

400 STA notifications x \$53.24 x 1 hour =	\$21,296
400 STA notifications x \$30.25 x 1 hour =	\$12,100
400 STA legal notifications x \$17.24 x 0.50 hours =	<u>\$ 3,448</u>
Cost to the Federal Government:	\$36,844

Total Cost to the Federal Government:

$\$443,800 + \$99,067.60 + \$26,748 + 27,633 + 36,844 = \$634,092.60$

15. There are program changes or adjustments to this information collection.

16. The data will not be published.

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

18. There are no exceptions to the Certification Statement.

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B. Collections of Information Employing Statistical Methods

No statistical methods are employed.