

OMB Control Number: 3060-0029

July 2009

Title: Application for DTV Broadcast Station License, FCC Form 302-DTV, 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.

SUPPORTING STATEMENT

A. Justification:

1. The Commission received OMB approval on December 29, 2008 under the emergency process procedures for a period of six months for the changes to FCC Form 340 that were necessary to accommodate applications by a DTV station for a DTS facility. The Commission now is requesting OMB approval for a period of three years for the requirements and changes to FCC Form 340.

In addition, the Commission is revising this information collection to eliminate the requirements that are no longer necessary because of the completion of the DTV transition on June 12, 2009. In particular, collections relating to the filing of applications for construction permits and broadcast licenses for analog TV stations are discontinued now that all full-power TV stations will broadcast only in digital. Therefore, with this submission the Commission is discontinuing FCC Form 302-TV now that all full-power TV stations will broadcast only in digital. The associated burdens and costs related to FCC Form 302-TV are removed from this collection.

Form 302-DTV is used by licensees and permittees¹ of Digital TV (“DTV”) broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of those stations. It may be used: (1) To cover an authorized construction permit (or auxiliary antenna), provided that the facilities have been constructed in compliance with the provisions and conditions specified on the construction permit; or (2) To implement modifications to existing licenses as permitted by 47 C.F.R. Sections 73.1675(c) or 73.1690(c).

FCC Form 340 is used by licensees and permittees to apply for authority to construct a new noncommercial educational (“NCE”)² FM and DTV broadcast station (including a DTS facility³), or to make changes in the existing facilities of such a station. The FCC Form 340 is only used if the

¹ 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.”

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

³ DTV stations may apply to use distributed transmission system (“DTS”) technology to serve their viewers. See 47 CFR § 73.626. DTS technology employs multiple synchronized transmitters spread around a station’s service area, rather than the current single-transmitter approach. Each transmitter would broadcast the station’s DTV signal on the same channel, similar to analog TV booster stations but more efficiently. Due to the synchronization of the transmitted signals, DTV receivers should be able to treat the multiple signals as reflections or “ghosts” and use “adaptive equalizer” circuitry to cancel or combine them to produce a single signal.

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station will operate on a channel that is reserved exclusively for NCE use,⁴ or in the situation where applications for NCE stations on non-reserved channels⁵ are mutually exclusive⁶ only with one another.

Form 340's Newspaper Notice (third party disclosure) requirement; 47 CFR § 73.3580. Form 340 also contains a third party disclosure requirement, pursuant to Section 73.3580. This rule requires stations applying for a new broadcast station, or to make major changes to an existing station, to give local public notice of this filing in a newspaper of general circulation in the community in which the station is located. This local public 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. In addition, a copy of this notice must be placed in the station's public inspection file along with the application, pursuant to Section 73.3527. This recordkeeping information collection requirement is contained in OMB Control No. 3060-0214, which covers Section 73.3527.

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.

Form 349's Newspaper Notice (third party disclosure) requirement; 47 CFR § 73.3580. Form 349 also contains a third party disclosure requirement, pursuant to Section 73.3580. This rule requires stations applying for a new broadcast station, or to make major changes to an existing station, to give local public notice of this filing in a newspaper of general circulation in the community in which the station is located. This local public 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. In addition, a copy of this notice must be placed in the station's public inspection file along with the application, pursuant to Section 73.3527. This recordkeeping information collection requirement is contained in OMB Control No. 3060-0214, which covers Section 73.3527.

⁴ Reserved channels include FM channels 200 to 220 (see 47 CFR § 73.501), as well as any FM and DTV channels appearing with an asterisk in their respective table of allotments (see FM Table at 47 CFR § 73.202 and Post-transition DTV Table at 47 CFR 73.622(i)).

⁵ Non-reserved channels are channels that are not reserved exclusively for NCE use and for which commercial entities could be eligible to operate full-power stations. Non-reserved channels include FM channels 221 and above appearing without an asterisk in the FM Table of Allotments (47 CFR § 73.202), and DTV channels appearing without an asterisk in the DTV Table of Allotments (47 CFR 73.622(i)).

⁶ 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.

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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. Agency Use of Information: The data is used by FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application. Specifically, the data collected by FCC Forms 302, 340 and 349 will be used as follows:

FCC Form 302-DTV. 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-DTV for inclusion in the subsequent license to operate the station. The Commission reviews these applications to ensure that the minor changes made by the 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. Consideration Given to Information Technology: The Commission requires applicants to file these forms electronically.

4. Effort to Identify Duplication and Use Similar Information: This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. Effort to Reduce Small Business Burden: 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. In addition, the Commission is not imposing any adverse economic impact on small entities by this new requirement because it is not mandatory; only stations choosing to apply for a DTS facility will be impacted. Therefore, the information collection

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does not have a significant economic impact on a substantial number of small entities/businesses.

6. Less Frequent Data Collection: The frequency for filing is determined by the respondents, as necessary.

7. Information Collection Circumstances: This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

8. Comments Received from the Public: The Commission published a Notice in the Federal Register Notice on March 12, 2009 (*see* 74 FR 10736) seeking public comment on the information collections contained in this supporting statement. No comments have been received from the public.

9. Payment or Gift: No payment or gift is provided to the respondents.

10. Confidentiality of Information: There is no need for confidentiality with this information collection.

11. Justification for Sensitive Questions: This information collection does not address any private matters of a sensitive nature.

12. Estimate of Burden and Burden Hour Cost: The following estimates are provided for public burden for this information collection. These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

a) FCC Form 302-DTV:

- We estimate that 200 applications for a license to cover a construction permit (“license applications”) and 100 applications to modify an existing license (“modifications”) will be filed by DTV stations with the Commission annually.⁷ We assume that the respondent (station licensee/permittee) will file this form. We estimate that the respondent will take two (2) hours to complete each application and file it. We assume that this time period of 2 hours for the completion and filing of each application will also include approximately 0.5 hours for the respondent to consult with a consulting engineer and 0.5 hours to consult with an outside attorney to assist the station in its preparation of the application’s engineering and legal sections, respectively.⁸ We estimate that the respondent will have an average salary of \$100,000/year (\$48.08/hour).

⁷ We note that this estimate includes the filing of amendments to these applications.

⁸ The respondent’s time to consult with the outside engineer and outside attorney is included in the 2 hours.

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b) FCC Form 340:

- We estimate that a total of 1,440 Form 340 construction permit applications will be filed by NCE full-power FM and DTV stations with the Commission annually.⁹ We assume that each respondent station licensee/permittee will contract with a consulting engineer to complete the engineering section of the application and will also contract with an attorney to complete the legal section of the application, review and file the FCC Form 340. We estimate that the respondent will spend approximately 2-4 hours consulting and reviewing the application with the outside engineering and legal consultants, depending upon the application type (e.g., New & Major, Minor, DTS). We estimate that the respondent will have an average salary of \$100,000/year (\$48.08/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 (\$48.08/hour), and attorneys employed at the station (\$48.08/hour).

Form 340 and 349 Newspaper Notices (47 CFR § 73.3580):

Section 73.3580 newspaper notices are required upon submission of construction permit applications for New & Major Changes. We estimate that it will take the respondent approximately one hour to fulfill the newspaper notice requirement. We estimate that the respondent will have an average salary of \$100,000/year (\$48.08/hour).

Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents ¹⁰	Annual In-House Cost
12a. Form 302-DTV (All DTV Stations)						
License Applications	200	200	2 hr	400 hrs	\$48.08	\$19,232.00
Modifications	100	100	2 hr	200 hrs	\$48.08	\$9,616.00
12a. Subtotal	300	300		600 hrs		\$28,848.00
12b. Form 340 (NCE Full-Power FM and DTV)						
FM NCE New & Major	1,000	1,000	4 hr consultation	4,000 hrs	\$48.08	\$192,320.00

⁹ We note that this estimate includes the filing of amendments to these applications.

¹⁰ The Commission estimates that the average hourly salary for in-house personnel which includes station manager, engineer and attorney to be \$100,000/year or \$48.08/hour based on the fact that the Commission is unsure who exactly will complete and file the applications for the station.

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Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Cost
FM NCE Minor	300	300	2 hr consultation	600 hrs	\$48.08	\$28,848.00
DTV NCE New & Major	30	30	4 hr consultation	120 hrs	\$48.08	\$5,769.60
DTV NCE Minor	100	100	2 hr consultation	200 hrs	\$48.08	\$9,616.00
DTS	10	10	3 hr consultation	30 hrs	\$48.08	\$1,442.40
12b. Subtotal	1,440	1,440		4,950 hrs		\$237,996.60
12c. Form 349 (All FM Translator or Booster)						
Commercial (filed by Station engineer)	700 ¹¹	700	1.5 hrs	1,050 hrs	\$48.08	\$50,484.00
Commercial (filed by Station attorney)	700	700	1.5 hrs	1,050 hrs	\$48.08	\$50,484.00
Noncommercial (filed by Station engineer)	300 ¹²	300	1 hr	300 hrs	\$48.08	\$14,424.00
Noncommercial (filed by Station attorney)	300	300	1 hr	300 hrs	\$48.08	\$14,424.00
12c. Subtotal	1,000	1,000		2,700 hrs		\$129,816.00
12d. Form 340 and 349 Newspaper Notices (Third Party Disclosure) Requirement; 47 CFR § 73.3580						
Newspaper Notices with FM NCE New & Major applications (Form 340)	1,000	1,000	1 hr	1,000 hrs	\$48.08	\$48,080.00
Newspaper Notices with DTV NCE New applications (Form 340)	30	30	1 hr	30 hrs	\$48.08	\$1,442.40
Newspaper Notices with Commercial FM Translator / Booster New & Major applications (Form 349)	700	700	1 hr	700 hrs	\$48.08	\$33,656.00

¹¹ This number represents a total of 700 commercial applications.

¹² This number represents a total of 300 noncommercial applications.

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Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Cost
Newspaper Notices with NCE FM Translator / Booster New & Major applications (Form 349)	300	300	1 hr	300 hrs	\$48.08	\$14,424.00
12d. Subtotal	2,030	2,030		2,030 hrs		\$97,602.40
TOTAL	4,770	4,770		10,280 hrs		\$494,263.00

13. Annual Cost Burden to Respondents: The annual cost burden to the respondents was calculated as follows:

a) FCC Form 302-DTV:

- We estimate that each respondent station licensee/permittee will consult with a consulting engineer for 0.5 hours to assist the respondent in its preparation of the application's engineering section and that each respondent station licensee/permittee will consult with an outside attorney for 0.5 hours to assist the respondent in its preparation of the application's the legal section. We estimate that the consulting engineer will have an average salary of \$150/hour and the outside attorney will charge approximately \$200/hour.
- Filing Fee: There is a \$285.00 filing fee for each license application filed by a commercial DTV station.¹³ Of the estimated 200 license applications that will be filed annually, we estimate that 90% or 180 of these applications will be filed by a commercial DTV station. The remaining 10% of the applications filed will not be subject to a filing fee.¹⁴ There is no filing fee for Form 302-DTV modifications, which can be made without prior Commission approval.

b) FCC Form 340:

- We assume that each respondent station will contract with a consulting engineer to complete the engineering section of the application and will also contract with an attorney to complete the legal section of the application, review and file the FCC Form 340. We estimate that the time

¹³ See 47 C.F.R. § 1.1104 (2009).

¹⁴ These applications (remaining 10%) are not commercial DTV applications but rather NCE applications. Only commercial DTV applications are subject to the filing fee.

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by outside engineering and legal consultants spent to complete, review and file the form will vary, depending upon the application and service type. We estimate that the consulting engineer will have an average salary of \$150/hour and the outside attorney will charge approximately \$200/hour.

- Newspaper Notice Publication Fee: FM and DTV applicants must give local public notice of the filing of its Form 340 construction permit 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, for a total of four (4) publications. The cost of this publication is estimated to be \$113.25/publication.
- Filing Fee: There is no filing fee for the Form 340, which is only filed by NCE stations.

b) 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.
- Newspaper Notice Publication Fee: 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, for a total of four (4) publications. The cost of this publication is estimated to be \$113.25/publication.
- Filing Fee: A respondent for a commercial station must submit a \$705.00 filing fee with its Form 349.¹⁵

Type	Number of Forms	Consultant's Burden	Total Annual Burden Hours	Consultant's Hourly Fee or Application Fee	Cost Burden
13a. Form 302-DTV					
License Application Engineering Consultant	200	0.5 hrs	100 hrs	\$150.00	\$15,000.00
License Application Outside Attorney	200	0.5 hrs	100 hrs	\$200.00	\$20,000.00
License Application	180 ¹⁶			\$285.00/fee	\$51,300.00

¹⁵ See 47 C.F.R. § 1.1104 (2009).

¹⁶ Only commercial stations are subject to the filing fee. Therefore, only 180 applicants will have to pay the filing fee. The remaining 20 applicants are not required to pay the fee.

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Filing Fee					
Modification Engineering Consultant	100	0.5 hrs	50 hrs	\$150.00	\$7,500.00
Modification Outside Attorney	100	0.5 hrs	50 hrs	\$200.00	\$10,000.00
13a. Annual Cost Burden (for Form 302-DTV) Subtotal					\$103,800.00
13b. Form 340					
FM NCE New & Major Engineering Consultant	1,000	67 hrs	67,000 hrs	\$150.00	\$10,050,000.00
FM NCE New & Major Outside Attorney	1,000	5 hrs	5,000 hrs	\$200.00	\$1,000,000.00
Newspaper Notice Publication Fee	1,000	4 publications		\$113.25/fee	\$453,000.00
FM NCE Minor Engineering Consultant	300	67.5 hrs	20,250 hrs	\$150.00	\$3,037,500.00
FM NCE Minor Outside Attorney	300	5 hrs	1,500 hrs	\$200.00	\$300,000.00
DTV NCE New & Major Engineering Consultant	30	34 hrs	1,020 hrs	\$150.00	\$153,000.00
DTV NCE New & Major Outside Attorney	30	5 hrs	150 hrs	\$200.00	\$30,000.00
Newspaper Notice Publication Fee	30	4 publications		\$113.25/fee	\$3,397.50
DTV NCE Minor Engineering Consultant	100	34 hrs	3,400 hrs	\$150.00	\$510,000.00
DTV NCE Minor Outside Attorney	100	5 hrs	500 hrs	\$200.00	\$100,000.00
DTS NCE Engineering Consultant	10	45 hrs	450 hrs	\$150.00	\$67,500.00
DTS NCE Outside Attorney	10	5 hrs	50 hrs	\$200.00	\$10,000.00
13b. Annual Cost Burden (for Form 340) Subtotal					\$15,714,397.00
13c. Form 349					
Commercial (filed by Station engineer)	700	8 hours	5,600 hours	\$150.00	\$840,000.00
Commercial (filed by Station attorney)	700	1 hour	700 hours	\$200.00	\$140,000.00
Filing Fee	700			\$705/fee	\$493,500.00
Noncommercial (filed by Station engineer)	300	12 hours	3,600 hours	\$150.00	\$540,000.00
Noncommercial (filed by Station attorney)	300	5 hours	1,500 hours	\$200.00	\$300,000.00
Newspaper Notice Publication Fee	1,000	4 publications		\$113.25/fee	\$453,000.00

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13c. Annual Cost Burden (for Form 349) Subtotal					\$2,766,500.00
TOTAL					\$18,584,697.00

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

FCC Form 302-DTV:

Clerical	0.50 hours x \$18.07/hour x 300 =	\$ 2,710.50
Paraprofessional	1.75 hours x \$33.12/hour x 300 =	\$ 17,388.00
Professional	5.25 hours x \$55.78/hour x 300 =	<u>\$ 87,853.50</u>
TOTAL		\$107,952.00

FCC Form 340:

FM New and Major Applications:

Clerical	1.5 hours x \$18.07/hour x 1,000 =	\$ 27,105.00
Paraprofessional	7.0 hours x \$33.12/hour x 1,000 =	\$ 231,840.00
Professional	36.9 hours x \$55.78/hour x 1,000 =	<u>\$2,058,282.00</u>
		\$2,317,227.00

FM Minor Change:

Clerical	2.0 hours x \$18.07/hour x 300 =	\$ 10,842.00
Paraprofessional	6 hours x \$33.12/hour x 300 =	\$ 59,616.00
Professional	25 hours x \$55.78/hour x 300 =	<u>\$418,350.00</u>
		\$488,808.00

DTV Applications (New & Major and Minor Change):

Clerical	2 hours x \$18.07/hour x 130 =	\$ 4,698.20
Paraprofessional	6 hours x \$33.12/hour x 130 =	\$ 25,833.60
Professional	16 hours x \$55.78/hour x 130 =	<u>\$116,022.40</u>
		\$146,554.20

DTS Applications:

Clerical	2 hours x \$18.07/hour x 10 =	\$ 361.40
Paraprofessional	6 hours x \$33.12/hour x 10 =	\$ 1,987.20
Professional	20 hours x \$55.78/hour x 10 =	<u>\$11,156.00</u>
		\$13,504.60

TOTAL **\$2,966,093.80**

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FCC Form 349:

Clerical (commercial)	1 hour x \$18.07 x 700 =	\$ 12,649.00
Professional	4 hours x \$55.78 x 700 =	\$156,184.00
Clerical (noncommercial)	1 hour x \$18.07 x 300 =	\$ 5,421.00
Professional	6 hours x \$55.78 x 300 =	<u>\$100,404.00</u>
TOTAL		<u>\$274,658.00</u>

Total Cost to Federal Government = \$107,952.00+ \$2,966,093.80+\$274,658.00 = 3,348,703.80

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

***FCC Form 302-DTV:** The Commission will use professional staff at the GS-14, step 5 level (\$55.78/hour), paraprofessional staff at the GS-11, step 5 level (\$33.12/hour), and clerical staff at the GS-5/Step 5 level (\$18.07/hour) to process the FCC 302-DTV applications.

***FCC Form 340:** The Commission will use professional staff at the GS-14, step 5 level (\$55.78/hour), paraprofessional staff at the GS-11, step 5 level (\$33.12/hour) and clerical staff at the GS-5, step 5 level (\$18.07/hour) to process these applications.

***FCC Form 349:** The Commission will use professionals at the GS-14, step 5 level (\$55.78/hour) and clerical personnel at the GS-5, step 5 level (\$18.07/hour) to process these applications.

15. Reason for Changes in Burden or Cost: The Commission had program changes of -1,200 to the annual burden hours and of -\$205,000 to the annual cost burden. These program changes were a result of the Commission discontinuing FCC Form 302-TV since full-power TV stations will broadcast only in digital, and therefore, the form is no longer needed.

The Commission also had adjustments of -2,970 to the annual hours and -\$3,079,928 to the annual cost burden. These adjustments were due to the Commission re-evaluating the burden for the requirements and forms that are contained in this collection especially since the DTV transition has occurred.

16. Plans for Publication: The data will not be published.

17. Display of OMB Approval Date: We request extension of the waiver not to publish the expiration date on the form. This will obviate the need for the Commission to update electronic forms upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR § 0.408.

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18. Exceptions to the Certification Statement: The Commission published a Notice in the Federal Register Notice on March 12, 2009 (*see* 74 FR 10736) seeking public comment on the information collections contained in this supporting statement. The following items were incorrectly stated in the notice: 4,425 respondents; 6,425 responses; 14,450 annual burden hours, and \$21,869,625 annual cost burden. These numbers are corrected to read as follows: 4,770 respondents; 4,770 responses; 10,280 annual burden hours, and \$18,584,697.00 annual cost burden. Also, recordkeeping requirement was included in the notice. It should not have been included in the notice because the recordkeeping requirement is contained under OMB Control No. 3060-0214, which covers Section 73.3527. Lastly, the collection is a revision instead of an extension as stated in the notice. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.