

Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station, FCC Form 346; 47 CFR Section 74.793(d); Section 73.3700, LPTV Repacking Displacement Application

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 346 is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or TV Booster broadcast station.

REVISED INFORMATION COLLECTION REQUIREMENTS

On October 2, 2012, the Commission released the Notice of Proposed Rulemaking, *Expanding the Economic and Innovative Opportunities of Spectrum Through Incentive Auctions*, Docket No. 12-268, FCC 12-118 (“IA NPRM”). The IA NPRM contains rules and policies for the incentive auction mandated by Congress in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156 (2012). Following the completion of the incentive auction process, low power television stations and TV translator stations may be displaced from their current operating channel and will be afforded an opportunity to file a displacement application on FCC Form 346.

Applicants are also subject to the third party disclosure requirement of 47 CFR Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for new or major changes 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 locally maintained along with the application.¹

There will be no changes to FCC Form 346 as a result of the proposed requirements adopted in FCC 12-118.

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, 307, 308, and 309 of the Communications Act of 1934, as amended.

2. The data are used by FCC staff to determine if the applicant is qualified, meets basic statutory and treaty requirements and will not cause interference to other authorized broadcast services.

3. On May 13, 2002, the Commission released Public Notice DA 02-1087 announcing the mandatory electronic filing of FCC Form 346. Mandatory electronic filing for these forms began on May 21, 2002. A copy of the Public Notice is attached. Paper-filed copies of FCC Form 346 will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Waivers will not be routinely granted and filers should plead with

¹ See OMB control number 3060-0214 for the burden associated with the recordkeeping requirement for the newspaper notices and application pursuant to Section 73.3527.

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particularity the facts and circumstances warranting grant of a waiver.

4. No other agency imposes 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. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities/businesses.
6. The frequency for filing is determined by respondents, as necessary.
7. This collection of information is consistent with the guidelines in 5 CFR Section 1320.5(d)(2).
8. The Commission published a Notice in the *Federal Register* on November 21, 2012 (77 FR 69934) seeking public comments on the proposed information collection requirements contained in this supporting statement. To date, no comments have been received from the public.
9. No payment or gift was provided to respondents.
10. There is no need for confidentiality with this collection of information.
11. This collection of information does not address any private matter.
12. We estimate that applicants/licensees/permittees will prepare and file 3,500 applications annually. We estimate that 10% of these applications (350 applications) will be made by the station licensee/permittee without outside consultation and will require nine and a half (9.5) hours² while 90% of these applications (3,150 applications) will be contracted out to outside attorneys/engineers and will require two and a half (2.5) hours of consultation with these outside parties.

In addition, we estimate that low power television and TV translator stations displaced by repacking will prepare and file 6,100 applications. We estimate that 10% of these applications (610 applications) will be made by the station licensee/permittee without outside consultation and will require nine and a half (9.5) hours³ while 90% of these applications (5,490 applications) will be contracted out to outside attorneys/engineers and will require two and a half (2.5) hours of consultation with these outside parties.

² These burden hours account for the additional hours respondents will require to complete the requirements of 47 CFR Section 74.793(d) and 74.787(c) and the revised FCC Form 346.

³ These burden hours account for the additional hours respondents will require to complete the requirements of 47 CFR Section 74.793(d) and 74.787(c) and the revised FCC Form 346.

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Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents ⁴	Annual In-House Cost
12. FCC Form 346						
FCC Form 346 filed by Licensee/ Permittee	350	350	9.5 hrs	3,325 hrs	\$48.08	\$159,866.00
FCC Form 346 filed by outside attorney/engineer but requiring the respondent to consult with said attorney/engineer	3,150	3,150	2.5 hrs consultation	7,875 hrs	\$48.08	\$378,630.00
Repacking Displacement Application file by Licensee/Permittee	610	610	9.5 hrs	5,795 hrs	\$48.08	\$278,623.60
Repacking Displacement Application filed by outside attorney/engineer but requiring the respondent to consult with said attorney/engineer	5,490	5,490	2.5 hrs consultation	13,725 hrs	\$48.08	\$659,898.00
TOTAL ANNUAL FILINGS/HOURS	9,600⁵	9,600		30,720 hrs		\$1,477,107.60

13. ANNUAL COST BURDEN. We estimate that 8,640 of the applicants/licensees/permittees will require use a communications attorney and a consulting engineer to assist in preparing and filing FCC Form 346. We estimate these attorneys will spend approximately 1 hour reviewing the form and will charge approximately \$300/hour for the legal review. We also assume that a consulting engineer will spend approximately 17 hours to complete certain engineering aspects of FCC Form 346 and will charge the respondent \$250/hour for the engineering services. In addition, each applicant/licensee must submit a \$545 application fee with FCC Form 346.

As required by the third party disclosure requirements of 47 CFR Section 73.3580, all applicants/licensees must give local public notice of the filing of its application for a new or 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—four public notice advertisements in all. We estimate the cost of this publication to be \$113.25/publication.

⁴ This estimate is based on an average salary for a station manager of \$100,000 per year or \$48.08 per hour.

⁵ This estimate is based on the entire universe of respondents for this collection.

Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station, FCC Form 346; 47 CFR Section 74.793(d); Section 73.3700, LPTV Repacking Displacement Application

8,640 applications x 1 hour/consulting attorney x \$300/hour =	\$2,592,000
8,640 applications x 17 hours/consulting engineer x \$250/hour =	\$3,672,000
9,600 applications x \$545/application =	\$5,232,000
9,600 notices x 4 notices/applicant x \$113.25/publication =	<u>\$4,348,800</u>
Total Annual Burden Cost: \$15,844,800	

14. The Commission will use legal and engineering staff at the GS-14, step 5 level (\$57.13/hour); clerical staff at the GS-5, step 5 level (\$18.50/hour) and paraprofessional staff at the GS-9, step 5 level (\$28.04/hour) to review and process these applications.

Attorney	3 hrs. x \$57.13/hour x 9,600 applications =	\$1,645,344
Engineer	11 hrs. x \$57.13/hour x 9,600 applications =	\$6,032,928
Clerical	5 hrs. x \$18.50/hour x 9,600 applications =	\$ 888,000
Paraprofessional	4 hrs. x \$28.04/hour x 9,600 applications =	<u>\$1,076,736</u>
Total Cost to the Federal Government =		\$9,643,008

15. If the proposed requirements contained in FCC 12-118 are adopted in a final rulemaking +6,100 respondents, +6,100 responses, -2,530 burden hours and -\$3,573,200 in annual cost will be added or removed from OMB's inventory. The decrease in hours and cost is due to the Commission thoroughly evaluating the impact of the proposed requirements on the respondents that will be impacted by this collection of information and in turn this evaluation resulted in a decrease in both figures.

16. The data will not be published.

17. An extension of the waiver not to publish the expiration date on the form is requested. 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 Section 0.408.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.