

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 2100, Schedule E¹ is to be used in all cases by a Class A television station licensees² seeking to make changes in the authorized facilities of such station.

The FCC Form 2100, Schedule E requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 2100, Schedule E provide additional information regarding Commission rules and policies. The FCC 2100, Schedule E application is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation.³ Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy.

Class A applicants are also subject to third party disclosure requirement of Section 73.3580 which requires local public notice in a newspaper of general circulation of the filing of all applications for 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 placed in the public inspection file along with the application.⁴

47 CFR 74.793(d) requires that digital low power and TV translator stations shall be required to submit information as to vertical radiation patterns as part of their applications (FCC Forms 346⁵ and 301-CA) for new or modified construction permits.

¹ In a previous non-substantive change, FCC Form 301-CA was renamed and encompassed by FCC Form 2100 and the electronic "Licensing Modernization" system. The former FCC Form 301-CA no longer exists, and its contents are fully contained within FCC Form 2100 and the "Licensing Modernization" system.

² Class A television stations are low power television licensees which, during the 90-day period ending November 28, 1999, operated their stations in a manner consistent with the programming and operational standards set forth in the Community Broadcasters Protection Act of 1999, and thus, were accorded primary status as Class A television licensees. See 47 C.F.R. Section 73.6001(a).

³ A "material representation" has been defined as one "relating to matter which is so substantial or important as to influence the party to whom it is made." See In the Matter of Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission, 18 F.C.C.R. 4016 (2003), citing the Matter of Mark E. Wagner, 744 N.E. 2d 418, 421 (Ind. 2001).

⁴ 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.

⁵ See OMB control number 3060-0016 for the associated burden for FCC Form 346 as it relates to Section 74.793(d).

Proposed Information Collection Requirements Which Require Review and Approval from the Office of Management and Budget (OMB):

On June 12, 2015, the Commission released a *First Order on Reconsideration and Notice of Proposed Rulemaking, In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 and MB Docket No. 15-137, FCC 15-67. This document contains proposed rules for channel sharing by and between full power and Class A television stations outside the context of the incentive auction.⁶ The proposed rules would allow Class A television stations to share a single channel with other full power or Class A stations. Class A stations will use FCC Form 2100, Schedule E (formerly FCC Form 301-CA) to apply for a construction permit for the technical facilities it proposes to share with another station.

The application for a construction permit to channel share must include a copy of the channel sharing agreement (“CSA”) between the stations. Each CSA must include provisions governing certain key aspects of the stations’ operations including: access to facilities; allocation of bandwidth within the shared channel; operation maintenance, repair, and modification of facilities; and termination or transfer/assignment of rights to the shared license. We propose to treat applications to channel share outside the auction context as minor change applications – that is, they would not be subject to local public notice requirements or a 30-day petition to deny filing window.

The Commission’s proposed rules would also require stations participating in CSAs to provide notice to multichannel video programming distributors (MVPDs) that: (1) no longer will be required to carry the station because of the relocation of the station; (2) currently carry and will continue to be obligated to carry a station that will change channels; or (3) will become obligated to carry the station due to a channel sharing relocation. We propose that the notice contain the following information: (1) date and time of any channel changes; (2) the channel occupied by the station before and after implementation of the CSA; (3) modification, if any, to antenna position, location, or power levels; (4) stream identification information; and (5) engineering staff contact information. The Commission propose that stations be able to elect whether to provide notice via a letter notification or provide notice electronically, if pre-arranged with the relevant MVPD. We also propose to require that sharee stations provide notice at least 30 days prior to terminating operations on the sharee’s channel and that both sharer and sharee stations provide notice at least 30 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the Commission proposes to require that the station(s) send a further notice to affected MVPDs informing them of the new anticipated date(s).

No changes to FCC Form 2100, Schedule E are required for it to be used to file applications for channel sharing outside the auction context; this collection is being changed to reflect the proposed use of the form for a new purpose – to propose channel sharing outside the context of the incentive

⁶ Proposed new rule 47 CFR 73.6028 proposes to require that a Class A TV channel sharing station relinquishing its channel file an application for the initial channel sharing construction permit (FCC Form 2100, Schedule E – formerly FCC Form 301-CA), include a copy of the channel sharing agreement as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the channel sharing arrangement may be included in the station’s application.

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auction. This collection is also being changed to reflect the burden associated with preparing a CSA in connection with channel sharing as well as the burden associated with providing the required notification to MVPDs.

Statutory authority for this collection of information is contained in Sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended, the Community Broadcasters Protection Act of 1999, and the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”).

This information collection does not affect individuals, thus there are no Privacy Act impacts.

2. The FCC Form 2100, Schedule E is designed to track the standards and criteria, which the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent.

3. On May 13, 2002, the Commission released Public Notice DA 02-1087 announcing the mandatory electronic filing of the form which began on November 21, 2002 (copy attached). Paper-filed copies of the form will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Filers must plead with particularity the facts and circumstances warranting grant of a waiver. Waivers will not be routinely granted.

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. Therefore, this collection of information 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 1320.5(d)(2).

8. The Commission published a Notice (80 FR 40957) in the *Federal Register* on July 14, 2015, seeking public comment on the requirements in this information collection. 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 for this collection of information.

11. This form does not address any private matter.

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12. **Estimate of Burden:** The Commission estimates a total of 450 applications (FCC Form 2100, Schedule E) will be filed and processed which includes major change applications (400) and minor change applications (50). The estimated time to file and process the applications will take licensees a total of 8.25 hours for the major change applications and a total of 3 hours for minor change applications. These time estimates also accounts for consulting time.

Total Number of Annual Respondents: 450 Station Licensees

Total Number of Annual Responses: 450 FCC Form 2100, Schedule E Forms + 50 MVPD notifications = 500 responses

Annual Burden Hours:

The Commission expects that respondents will require 8.25 hours to complete the **major change application**. This includes 6 hours to complete the legal portion and 2 ¼ hours for the engineering portion of the form. In addition, respondents will require 2 hours (one hour each for in-house attorney and engineer) to prepare a **minor change application** (channel share). The respondent will also require a total of one (1) hour of consultation with an outside engineer (1/2 hour) and an attorney (1/2 hour).

Applicants for a minor change to channel share must also prepare channel sharing agreements (C

SA).⁷ The Commission estimates 10 hours to prepare the CSA, including 8 hours of preparation time by respondents and 2 hours for respondents to consult with outside attorneys. These applicants must also notify MVPDs of their channel share. The Commission estimates this notification will take 2 hours for in-house staff. .

400 major change x 6 hours =	2,400
400 major change x 2.25 hours =	900
50 minor change x 2 hours =	100
50 minor change x 1 hour =	50
50 CSAs x 8 hours =	400
50 CSAs x 2 hours (consulting) =	100
50 MVPD notifications x 2 hours =	<u>100</u>
Total Annual Burden Hours:	4,050 hours

Annual “In House” Cost: The respondent and station engineer are estimated to have an average salary of \$100,000/year (\$48.08/hour).

⁷ The CSAs are filed as attachments to the minor change applications so they are not counted as separate responses from the minor change applications.

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400 major change x 6 hours x 48.08/hour =	\$115,392
400 major change x 2.25 hours x \$48.08/hour =	43,272_
50 minor change x 2 hours x \$48.08/hour =	4,808
50 minor change x 1 hour x \$48.08 =	2,404
50 CSAs x 8 hours x \$48.08/hour =	19,232
50 CSAs x 2 hours (consulting) x \$48.08 =	4,808
50 MVPD notification x 2 hours x \$48.08 =	<u>4,808</u>
Annual "In House" Cost: \$194,724	

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

13. Annual Cost Burden: The respondent will also use a consulting attorney (\$300/hour) and engineer (\$250/hour) in the **preparation and filing of the FCC Form 2100, Schedule E (major change applications and minor change applications)**. The attorney will require one hour of legal review time and the engineer requires 12 hours of engineering time for **major change applications**. For **minor change applications**, the processing time needed is 0.5 hours for the attorney and 0.5 for the engineer. For **CSAs**, the consulting attorney will require 2 hours to prepare these responses.

An **application fee of \$3,245** is required for a **major change applications** in a Class A television. The application fee of **\$725 fee** is required for a **minor change applications** to channel share.

For Class A applicants (major applicants only), they must give local public notice of the filing of its application in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost is estimated at \$113.25/publication.

400 major change x 1 hour x \$300/hour =	\$120,000
400 major change x 12 hours x \$250/hour =	\$1,200,000
400 major change applications x \$3,245 fee =	\$1,298,000
400 major applications x 4 x \$113.25/publication cost =	\$181,200
50 minor change x 0.5 hours x \$300 =	\$7,500
50 minor change x 0.5 hours x \$250 =	\$6,250
50 minor change x \$725 fee =	\$36,250
50 CSAs x 2 hours x \$300/hour =	<u>\$30,000</u>
Total Annual Cost Burden:	
	\$2,879,200

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14. **Cost to the Federal Government:** The Commission will use legal and engineering staff at the GS-11, step 5 level (\$34.60/hour), clerical staff at the GS-5, step 5 level (\$18.88/hour) and paraprofessional staff at the GS-9, step 5 level (\$28.60/hour) to process these applications.

Attorney	3 hrs. x \$34.60/hour x 450 applications	=	\$ 46,710
Engineer	11 hrs. x \$34.60/hour x 450 applications	=	\$171,270
Clerical	5 hrs. x \$18.88/hour x 450 applications	=	\$ 42,480
Paraprofessiona	4 hrs. x \$28.60/hour x 450 applications	=	<u>\$ 51,480</u>
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	Total Cost to Federal Government:		\$311,940

15. If the proposed requirements in FCC 15-67 are adopted in a final rulemaking by the Commission the following program changes/increases will be added to the OMB inventory: 50 to the number of respondents, 100 to the number of responses, 750 to the annual burden hours, and \$80,000 to the annual cost burden.

There are adjustments/decreases to the Commission’s cost estimate of \$400,000. This is due to the Commission reevaluating its cost estimate for the consulting engineer.

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.