

**Title: Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349****SUPPORTING STATEMENT****A. Justification:**

**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.

**Revised Information Collection Requirements Which Require OMB Approval:**

On June 29, 2009, the Commission adopted a Report and Order, *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, MB Docket No. 07-172, FCC 09-59. In the 2009 Report and Order, the Commission adopted changes to the FM translator rules that allowed AM stations to use authorized FM translator stations<sup>1</sup> to rebroadcast the AM signal locally, retransmitting their AM programming as a "fill-in" service. The adopted cross-service translating rules limited FM translators to providing "fill-in" service only, specifically within the AM primary station's authorized service area.<sup>2</sup>

AM radio stations use Form 349 to apply for authorizations to operate such fill-in FM translator stations. Consistent with actions taken by the Commission in the 2009 Report and Order, the following changes were made to Form 349: Sections II and III of Form 349 included new certifications concerning compliance with the AM station "fill-in" service requirements. Specifically, in the AM service, applicants certify that the coverage contour (1 mV/m) of the FM translator station is contained within the lesser of: (a) the 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25-mile radius centered at the AM station's transmitter site.

On October 21, 2015, the Commission adopted a First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry, in *Revitalization of the AM Radio Service*, MB Docket No. 13-249, FCC 15-142 (*AM Revitalization FNPRM*). On, February 23, 2017, consistent with actions proposed by the Commission in the *AM Revitalization FNPRM*, the Commission adopted a Second Report and Order, in *Revitalization of the AM Radio Service*, MB Dkt. No. 13-249, FCC 17-14 (*AM Revitalization Second R&O*). In the *AM Revitalization Second R&O*, the Commission adopted as proposed the following rule (and Form) changes to this information collection (the Commission received OMB preapproval on March

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<sup>1</sup> FM translator stations are low power facilities licensed for the limited purpose of retransmitting the signals of either a full power radio station or another translator station. 47 C.F.R. § 74.1201.

<sup>2</sup> As defined in 47 C.F.R. § 74.1201(d), the "primary station" is the AM or FM radio broadcast station radiating the signal to be retransmitted by the FM translator station.

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21, 2016):<sup>3</sup> modify Section 74.1201(g) of the rules to provide that the coverage contour (1 mV/m) of an FM translator station rebroadcasting an AM radio station as its primary station must be contained within the *greater* of either the 2 mV/m daytime contour of the AM station, or a 25-mile radius centered at the AM station's transmitter site.<sup>4</sup>

Consistent with actions proposed by the Commission in the *AM Revitalization FNPRM*, the Commission in the *AM Revitalization Second R&O* also adopted as proposed the following changes to Form 349 (the Commission received OMB pre-approval on March 21, 2016): Sections II and III of Form 349 include new certifications concerning compliance with the new AM station "fill-in" service requirements. Specifically, applicants will certify that the 1 mV/m coverage contour of the FM translator station is contained within the greater of either: (a) the 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25-mile radius centered at the AM station's transmitter site,<sup>5</sup> The instructions for Sections II and III have been revised to assist applicants with completing the modified questions.

With this submission, the Commission is currently seeking to obtain OMB final approval for the preapproved revisions to Section 74.1201(g) of the rules and FCC Form 349 for this information collection (the Commission received OMB preapproval on March 21, 2016). There are no changes to the number of respondents, number of responses, annual burden hours, or annual cost for this collection from the preapproval of the proposed information collection requirements to the final information collection requirements, which were adopted in FCC 17-14.

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:** FCC staff use the data 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 this Form 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.

<sup>3</sup> OMB NOA March 21, 2016, ICR Reference Number 201601-3060-011.

<sup>4</sup> The Commission did not adopt, as proposed in the *AM Revitalization FNPRM*, the 40-mile limitation language "but the FM translator's 1 mV/m contour may not extend beyond a 40-mile radius centered at the AM station's transmitter site," and has therefore submitted a non-substantive change request in the interest of simplifying compliance for applicants. This is a non-substantive change to the language that was pre-approved by OMB. There is no change in the number of respondents, number of responses, annual burden hours, or annual cost for this pre-approved collection.

<sup>5</sup> *Id.*

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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. Therefore, the information collection 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* seeking public comment on the information collections contained in this supporting statement, see 81 FR 2818, published on January 19, 2016. To date, the Commission did not receive any comments 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:** We estimate 1,200 Form 349 applications will be filed annually. Most of the filings will consist of making repairs or miscellaneous changes in the FM translator or FM booster station facility. Station engineers and attorneys with a salary of \$100,000/year (\$48.08/hour) will perform these functions.

Respondents are required by Section 73.3580 to fulfill the newspaper notice requirement for construction permit applications for New and Major Changes. We estimate one hour to fulfill this requirement. The respondent’s salary is \$100,000/year (\$48.08/hour).

Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Cost
<b>Form 349 (All FM Translator or Booster)</b>						
Commercial (filed by Station engineer)	900 <sup>6</sup>	900	1.5 hrs	1,350 hrs	\$48.08	\$64,908.00
Commercial (filed	900	900	1.5 hrs	1,350 hrs	\$48.08	\$64,908.00

<sup>6</sup> This number represents a total of 900 commercial applicants.

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Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Cost
by Station attorney)						
Noncommercial (filed by Station engineer)	300 <sup>7</sup>	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
<b>Newspaper Notice (Third Party Disclosure) Requirement; 47 CFR § 73.3580</b>						
Newspaper Notices - Commercial	900	900	1 hr	900 hrs	\$48.08	\$43,272.00
Newspaper Notices - Noncommercial	300	300	1 hr	300 hrs	\$48.08	\$14,424.00
<b>TOTAL</b>	<b>1,200</b>	<b>2,400</b>		<b>4,500 hrs</b>		<b>\$216,360.00</b>

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

- We assume that the average respondent would contract with consulting engineers (\$250/hour) and attorneys in a law firm (\$300/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 \$790.00 filing fee with its Form 349.<sup>8</sup>

Type	Number of Forms	Consultant's Burden	Total Annual Burden Hours	Consultant's Hourly Fee or Application Fee	Cost Burden
Commercial (filed by Station engineer)	900	8 hours	7,200 hours	\$250.00	\$1,800,000.00
Commercial (filed by Station attorney)	900	1 hour	900 hours	\$300.00	\$270,000.00

<sup>7</sup> This number represents a total of 300 noncommercial applicants.

<sup>8</sup> See 47 C.F.R. § 1.1104 (2009).

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Filing Fee	900			\$790/fee	\$711,000.00
Noncommercial (filed by Station engineer)	300	12 hours	3,600 hours	\$250.00	\$900,000.00
Noncommercial (filed by Station attorney)	300	5 hours	1,500 hours	\$300.00	\$450,000.00
Newspaper Notice Publication Fee	1,200	4 publications		\$113.25/fee	\$543,600.00
<b>TOTAL</b>					<b>\$4,674,600.00</b>

14. **Cost to Federal Government:** The Commission will use professionals at the GS-14, step 5 level (\$59.13/hour) and clerical personnel at the GS-5, step 5 level (\$19.15/hour) to process these applications.

Clerical (commercial)	1 hour x \$19.15 x 900 =	\$ 17,235.00
Professional	4 hours x \$59.13 x 900 =	\$212,868.00
Clerical (noncommercial)	1 hour x \$19.15 x 300 =	\$ 5,745.00
Professional	6 hours x \$59.13 x 300 =	<u>\$106,434.00</u>
<b>Total Cost to Federal Government:</b>		<b>\$342,282.00</b>

15. **Reason for Changes in Burden or Cost:** There are no program changes to this collection because the form revisions did not have an impact on the burden hours or cost for this collection. There are adjustments/increases of \$76,500 which are due to increases in filing fees.

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.

18. **Exceptions to the Certification Statement:** There are no exceptions to the Certification Statement.

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

This information collection does not employ any statistical methods.