

**Application for Consent to Assignment of Broadcast Station Construction Permit or License, FCC Form 314; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License, FCC Form 315; Section 73.3580, Local Public Notice of Filing of Broadcast Applications**

**SUPPORTING STATEMENT**

**Description of Information Collection:**

**A. Justification**

1. **Circumstances Necessitating Change to Information Collection:** This submission is being made as a revision to an existing information collection pursuant to 44 U.S.C. § 3507. This submission contains revised FCC Forms 314 and 315 and their accompanying instructions and worksheets.

FCC Form 314 and the applicable exhibits/explanations are required to be filed when applying for consent for assignment of an AM, FM, LPFM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved assignment of a broadcast station construction permit or license has been consummated.

FCC Form 315 and applicable exhibits/explanations are required to be filed when applying for transfer of control of an entity holding an AM, FM, LPFM or TV broadcast station construction permit or license. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated. Due to the similarities in the information collected by these two forms, OMB has assigned both forms OMB Control Number 3060-0031.

47 CFR Section 73.3580 requires local public notice in a newspaper of general circulation published in the community in which a station is located of the filing of all applications for transfer of control or assignment of the license/permit. 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 and the application must be placed in the station's public inspection file. Additionally, an applicant for transfer of control of a license must broadcast the same notice over the station at least once daily on four days in the second week immediately following the tendering for filing of the application.

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

On December 18, 2007, the Commission adopted a Report and Order and Third Further Notice of Proposed Rulemaking (the "Order") in MB Docket Nos. 07-294; 06-121; 02-277; 04-228, MM Docket Nos. 01-235; 01-317; 00-244; FCC 07-217. The Order adopts rule changes designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses (new universe of respondents).

Consistent with actions taken by the Commission in the Order, the following changes are made to Forms 314 and 315: The instructions to Forms 314 and 315 have been revised to incorporate a definition of "eligible entity," which will apply to the Commission's existing

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Equity Debt Plus (“EDP”) standard, one of the standards used to determine whether interests are attributable. Section II of each form includes a new certification concerning compliance with the Commission’s anti-discrimination rules. Section III of Form 314 and Section IV of Form 315 each include a new question asking applicants to indicate whether the applicant is claiming “eligible entity” status. Section III of Form 314 and Section IV of Form 315 each also contain a new question asking applicants to indicate whether the proposed transaction involves the assignment of a radio station license that is part of a grandfathered cluster of radio licenses, and if the cluster does not comply with the Commission’s multiple ownership rules, whether any of the licenses will be divested within 12 months of consummation of the transaction and assigned to an eligible entity in order to come into compliance with Commission’s ownership rules. The instructions for Sections II and III of Form 314 and Sections II and IV of Form 315 have been revised to assist applicants with completing the new questions.

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 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.

3. **Consideration Given to Information Technology:** The Commission requires applicants to file FCC Forms 314 and 315 electronically.

4. **Effort to Identify Duplication and 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. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities.

6. **Less Frequent Data Collections:** The frequency for this collection of information is determined by respondents, as necessary.

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

8. **Public Comment Period:** Opportunity for public comment on this information collection requirement has been published in the *Federal Register* (73 FR 66044) on November 6, 2008. No comments were received from the public.

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9. **Payment or Gift:** No payment or gift was provided to respondents.

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

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:

Services/Rule Sections	Number of Applications	Respondent's Burden Hours	Annual Hrly. Burden
Single AM/FM/TV	1,020	2 hours	2,040
LPFM Transactions	60	2 hours	120
LPFM Transactions	60	6 hours	360
Multiple Station Transactions	2,980	3 hours	8,940
Pending Applications	600	3 hours	1,800
Waivers	100	5 hours <sup>1</sup>	500
Sec. 73.3580(c) newspaper notice	3,850	1 hour	3,850
Sec. 73.3580(d) broadcast notice	3,850	0.084 hour	323
<b>TOTALS:</b>	<b>12,520 Responses</b>		<b>17,933 Hours</b>

**Total Number of Respondents: 4,820 Licensees/Permittees**

**Total Number of Responses: 12,520 responses**

**Total Annual Burden Hours: 17,933 hours**

**The total annual burden hours were arrived based on the following data:**

\*We assume that the respondents would consult with an attorney to complete FCC Forms 314 and 315 applications for a single AM/FM/TV station. The consultations and review of the applications will take the respondent 2 hours per application.

\* We assume that 50% of the respondents for LPFM stations (60 respondents) will consult with an attorney to complete an FCC Forms 314 and 315 applications. We estimate that these respondents will spend 2 hours in consultation with an attorney and in the review of the application.

\*We also assume that 50% of the respondents for LPFM stations (60 respondents) will prepare the

<sup>1</sup> The burden for the respondent to attach waiver showings/filings to the form/application pursuant to 47 CFR 73.3555(d) is included in this burden estimate.

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application themselves. We estimate that these respondents will spend 6 hours preparing the application.

\*We also estimate that the respondent will spend 2 hours in consultation with an attorney and 1 hour in consultation with a consulting engineer for a total of 3 hours in the preparation of a multiple ownership analysis in connection with a multiple station transaction, in the preparation to amend a pending application. The preparation of a waiver of the multiple ownership rules and cross-ownership rules will take the respondent 5 hours to complete.

\*We also estimate that the respondent will spend ½ an hour in consultation with an attorney and ½ an hour an consulting engineer for a total of 1 hour in the preparation of newspaper notices.

\*We estimate that it will take the respondent 1 hour to compile data and give notice to the public of the filing of a renewal application by broadcasting the announcement over the air.

\*The newspaper notices will take the respondent 1 hour to complete. The broadcast notices will take the respondent five minutes to announce over the air.

\*We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/ hour)

**Annual “In-house” Cost:**

<b>Services/Rule Sections</b>	<b>Number of Applications</b>	<b>Respondent’s Hrly. Burden</b>	<b>Respondent’s Hrly. Wage</b>	<b>Annual “In-House Cost</b>
Single AM/FM/TV	1,020	2 hours	\$48.08	\$98,083.20
LPFM Transactions	60	2 hours	\$48.08	\$5,769.60
LPFM Transactions	60	6 hours	\$48.08	\$17,308.80
Multiple Station Transactions	2,980	3 hours	\$48.08	\$429,835.20
Pending Applications	600	3 hours	\$48.08	\$86,544.00
Waivers	100	5 hours	\$48.08	\$24,040.00
73.3580(c) newspaper notice	3,850	1 hour	\$48.08	\$185,108.00
§73.3580(d) broadcast notice	3,850	0.084 hours	\$48.08	\$15,549.07
<b>Total Annual In-House Cost:</b>				<b>\$862,237.87</b>

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

13. **Annual Cost Burden:** We assume that the respondents would use an attorney to

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prepare and file an application for a single station. We also assume that the respondents would use an attorney and an engineer to prepare and file applications for multiple station transactions, amendments to pending applications, or applications with waivers.

\*We estimate that an application for assignment of a single AM/FM/TV station will take an attorney an average of 13 hours per application. We estimate that an application for assignment of an LPFM station will take an attorney an average of 4 hours per application. An assignment of multiple AM/FM/TV stations will now take an attorney an average of 44 hours per application.

\*Of the assignment of multiple AM/FM stations, applicants will demonstrate compliance with the rule in each Arbitron Metro. Stations not within an Arbitron Metro demonstrate compliance by using the interim contour methodology.<sup>2</sup> We estimate that 60% of applications with multiple station transactions will take an engineer an average of 1 hour to determine the number of full-power radio stations in an Arbitron Metro market, as reported by the consulting firm of BIA. The other 40% will take 2 hours of an engineer's time to prepare a contour-overlap map.

\*We estimate that an application with a waiver of the new multiple ownership rules and cross-media limits will take an attorney an average of 47 hours per application and an engineer an average of 2 hours.

\* We estimate that it will take an attorney 1 hour to file amendments to pending applications and an engineer 2 hours to prepare the data that will be used to amend pending applications.

\*An applicant must also submit a fee (\$830/station) with the filing of a new application. Additionally, an applicant must give local public notice of the filing of its application for an assignment of license/permit using a specific text for publication in a local newspaper.

\*Non-commercial educational ("NCE") stations and stations that are the only operating station in their broadcast service in their community of license [are or will be]be required to give local public notice in a newspaper of the filing of applications for an assignment of license/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. The cost of this publication is estimated to be \$113.25/publication.

\*Broadcast notices require a broadcast station licensee to give notice of the filing of a renewal application by broadcasting announcements on the broadcaster's station and no cost is attached to this requirement.

\*We estimate that the average cost for an attorney is \$200/hour and the average cost for a consulting engineer is \$150/hour.

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<sup>2</sup> The contour-overlap method define the total number of stations existing in the "market" as (i) the stations owned by the entity and (ii) all other stations whose city-grade contours overlapped any part of any of the contours of the stations owned by the entity.[why including this, not relevant?]

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1,020 single AM/FM/TV applications x \$200/hour x 13 hours =	\$ 2,652,000
60 LPFM applications (50% of the Applications) x \$200/hour x 4 hours =	\$ 48,000
2,980 multiple AM/FM/TV applications x \$200/hour x 44 hours =	\$26,224,000
600 pending applications x \$200/hour x 1 hour =	\$ 120,000
100 waiver applications x \$200/hour x 47 hours =	\$ 940,000
<b>Annual Cost Burden (Attorney):</b>	<b>\$29,984,000</b>

(Single applications and LPFM applications do not require engineering consultations).

1,788 multiple AM/FM/TV applications x \$150/hour x 1 hour =	\$268,200
1,192 multiple AM/FM/TV applications x \$150/hour x 2 hours =	\$357,600
600 pending applications x \$150/hour x 2 hours =	\$180,000
100 waiver applications x \$150/hour x 2 hours =	\$ 30,000
<b>Annual Cost Burden (Engineer):</b>	<b>\$835,800</b>

(There is no fee required for pending applications).

1,020 single applications x \$830 filing fee/station =	\$ 846,600
120 LPFM applications x \$830 filing fee/station =	\$ 99,600
2,980 multiple AM/FM/TV applications x \$830 filing fee/station =	\$2,473,400
100 waivers x \$830 filing fee/station =	\$ 83,000
3,850 <sup>3</sup> newspaper notices x 4 publications x \$113.25/publication =	\$1,744,050
<b>Annual Cost Burden (Fees):</b>	<b>\$5,246,650</b>

**Total Annual Cost Burden:** \$29,984,000 + \$835,800 + \$5,246,650 = **\$36,066,450**

**14. Cost to Federal Government:** The Commission will use professional 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) to process these applications.

Single AM/FM/TV applications:

1,020 applications x \$53.24/hour x 1 hour =	\$54,304.80
1,020 applications x \$31.61/hour x 1 hour =	\$32,242.20
1,020 applications x \$17.24/hour x 0.5 hour =	\$ 8,792.40
	\$95,339.40

Single LPFM applications:

120 applications x \$53.24/hour x 1 hours =	\$6,388.80
120 applications x \$31.61/hour x 1 hour =	\$3,793.20

<sup>3</sup> The Commission arrived at the numbers of 3,850 newspaper notices and 3,850 broadcast announcements/notices based on the total number of applications that will need a notice filed in the newspaper and broadcasted over the air. All applications in this information collection need notices published in the newspaper and notices broadcasted over the air except Low Power FM Transactions (LPFM) applications.

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\$10,182.00

Multiple Station applications:

2,980 applications x \$53.24/hour x 41 hours =	\$6,504,863.20
2,980 applications x \$31.61/hour x 1 hour =	\$ 94,197.80
2,980 applications x \$17.24/hour x 0.5 hours =	<u>\$ 25,687.60</u>
	\$6,624,748.60

Pending Applications:

600 applications x \$53.24/hour x 41 hours =	\$1,309,704.00
600 applications x \$31.61/hour x 1 hour =	\$ 18,966.00
600 applications x \$17.24/hour x 0.5 hours =	<u>\$ 5,172.00</u>
	\$1,333,842.00

Waivers:

100 applications x \$53.24/hour x 43 hours =	\$228,932.00
100 applications x \$31.61/hour x 1 hour =	\$ 3,161.00
100 applications x \$17.24/hour x 0.5 hours =	<u>\$ 862.00</u>
	\$232,955.00

**Total Cost to the Federal Government:**

**\$8,297,067.00**

15. **Reason for Changes in Burden or Cost:** We have program changes to the annual cost burden of +\$2,076,880 and +2,670 to the annual burden hours due to the adoption of information collection requirements contained in the Order.<sup>4</sup> Therefore, the rules which impose information collection requirements are designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses (new universe of respondents).

Also, the increases are due to revisions made to FCC Forms 314 and 315, which include a new certification concerning compliance with the Commission's rule prohibiting discrimination in sales transactions, a new question asking whether the applicant is claiming "eligible entity" status under the FCC's revised EDP standards adopted in the Order, and a new question asking whether the proposed transaction involves the assignment of a radio station license that is part of a non-compliant, grandfathered cluster of radio licenses and whether any license will be divested within 12 months of consummation of the transaction and assigned to an eligible entity. These changes reflect an increase by one hour per application for applicants and/or their attorneys to evaluate compliance with FCC rules, assess whether they may claim "eligible entity" status, and complete (if applicable) the question relating to grandfathered radio station divestitures; except in the case of waiver applications, which have increased burdens by 3 hours. We also made modifications to the instructions for the Assignee/Transferee Section (Instructions, Section III on Form 314, Instructions, Section IV on Form 315) of Forms 314 and

<sup>4</sup> The Order is FCC 07-217 adopted on December 18, 2007.

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315 that do not add burdens because they are editorial in nature.

There also is an adjustment -3,527 hours to the annual burden hours due to the Commission over calculating the burden in its previous submission to OMB. With this submission the burden is more accurately calculated.

**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:** The Commission published a notice in the *Federal Register* (73 FR 66044) on November 6, 2008 seeking public comment on the information collection requirements contained in this supporting statement. The total annual burden hours were published in the notice as 21,460 hours and the estimated time per response was stated as 1-6 hours per response. We correct those numbers to read 17,933 burden hours and the estimated time per response is 0.084 – 6 hours . 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.