

**Title: Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station - FCC Form 345**

**SUPPORTING STATEMENT**

**A. Justification:**

1. Filing of the FCC Form 345 is required when applying for authority for assignment of license or permit, or for consent to transfer of control of a corporate licensee or permittee for an FM or TV translator station, or low power TV station.

This collection also includes the third party disclosure requirement of 47 CFR Section 73.3580 (OMB approval was received for Section 73.3580 under OMB Control Number 3060-0031). 47 CFR Section 73.3580 requires local public notice in a newspaper of general circulation in the community in which the station is located or providing notice over the air of the filing of all applications for assignment of license/permit. This notice must be completed within 30 days of the tendering of the application. A copy of the newspaper notice or a record of the broadcast notice and the application must be placed in the public inspection file.<sup>1</sup>

**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 *Report and Order*, the Commission adopted changes to the FM translator rules that would allow AM stations to use authorized FM translator stations<sup>2</sup> to rebroadcast the AM signal locally, retransmitting their AM programming as a “fill-in” service. The adopted cross service translating rules limit FM translators to providing “fill-in” service only, specifically within the AM primary station’s authorized service area.<sup>3</sup> In addition, the Commission limited the cross-service rule changes to “currently authorized FM translators,” that is, those translators with licenses or permit in effect as of May 1, 2009.

Consistent with actions taken by the Commission in the *Report and Order*, the following changes are made to Form 345: Section III of Form 345 includes a new certification concerning compliance with the AM station “fill-in” service requirements. Specifically, in the AM service, applicants certify that the coverage contour 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. The instructions for Section III have been revised to assist applicants with completing the new question.

**The Commission received OMB review for the new universe of filers (AM stations to use authorized FM translator stations to rebroadcast the AM signal locally, retransmitting their AM programming as a “fill-in” service) and information collection requirement (changes to FCC Form 345) at the Notice of Proposed Rulemaking stage on November 26, 2007. Since the adoption of the Report and Order (FCC 09-59), the information collection requirement (changes to FCC Form 345 as submitted), and the new universe of filers have not changed. The Commission is simply obtaining final OMB approval for this collection with this submission.**

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<sup>1</sup> See OMB control number 3060-0214 for the burden associated with the recordkeeping requirement for the newspaper and broadcast notices pursuant to Section 73.3527.

<sup>2</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>3</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 that is to be retransmitted by the FM translator station.

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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) and 310 of the Communications Act of 1934, as amended.

2. **Agency Use of Information:** The data is used by FCC staff to determine if the applicant meets basic statutory requirements to operate the station.

3. **Consideration Given to Information Technology:** These forms are required to be filed electronically. Paper versions are accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Waivers are not routinely granted, and filers should plead with particularity the facts and circumstances warranting grant of a waiver.

4. **Effort to Identify Duplication and Similar Information:** No other agency imposes a similar information collection on the respondents.

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. Therefore, the information collection does not have a significant economic impact on a substantial number of small entities/businesses.

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. **Consultations with Persons outside the FCC:** The Commission published a notice in the *Federal Register* seeking public comment on the information collections contained in this supporting statement, see 72 FR 62616, published November 6, 2007. No comments were received from the public.

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

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

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

12. **Estimate of Burden and Burden Hour Cost:** We estimate that 1,700 FCC Form 345 applications will be filed and processed annually. The average burden is 1.25 hour for the respondent to review FCC Form 345 once it has been completed by an outside attorney. In addition, the filing of a newspaper notice will take the respondent (1) hour per notice or 5 minutes to broadcast each broadcast notice required under 47 CFR Sections 73.3580(c) and 73.3580(d).

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**Total Annual Number of Respondents: 1,700 Licensees/Permittees<sup>4</sup>**

**Total Annual Number of Responses:**

1,700 FCC Form 345 Applications  
 500 Section 73.3580(c) and (g) Newspaper Notices  
500 Section 73.3580(d) Broadcast Notices  
**2,700 responses<sup>5</sup>**

**Total Annual Burden Hours:**

1,700 FCC Form 345 Applications x 1.25 hours/application	=	2,125 hours
500 Newspaper Notices <sup>6</sup> (Section 73.3580(c) and (g)) x 1 hour/notice	=	500 hours
500 Broadcast Notices <sup>7</sup> (Section 73.3580(d)) x 0.084 hr. (5 mins.)/notice	=	<u>42 hours</u>
		<b>2,667 hours<sup>8</sup></b>

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

**Total Annual “In-House” Cost:** We assume that 100% of the respondents would convey to their attorneys their desire to effectuate an assignment of license or transfer of control of a broadcast license and that they would review the work done by the attorney. We estimate that this will take approximately 1 hour per application. We estimate this respondent will have an average salary of \$100,000/year (\$48.08/hour).

1,700 FCC Form 345 Applications x 1.25 hours/application x \$48.08/hr.	=	\$102,170.00
500 Newspaper Notices (Sections 73.3580(c) and (g)) x 1 hr/notice x \$48.08/hr.	=	\$ 24,040.00
500 Broadcast Notices (Section 73.3580(d)) x 0.084 hr./notice x 48.08/hr	=	<u>\$ 2,019.36</u>
		<b>\$128,229.36<sup>9</sup></b>

**13. Annual Cost Burden:** We assume that the respondent would use an attorney to complete and file the FCC 345. We estimate that this attorney will require 7.25 hours to complete this work and has an average salary of \$200/hour. A licensee must also submit a fee for each application by a commercial broadcast station for assignment or transfer at \$115/request. Of the 1,700 applications, we expect 1,360 applications (or 80% of the applications) to be filed by commercial stations. The remaining 340 applications

<sup>4</sup> The R&O, FCC 09-59, adds an additional 700 respondents to this information collection.

<sup>5</sup> The R&O, FCC 09-59, adds an additional 700 responses to this information collection.

<sup>6</sup> We estimate that 50% of the respondents will meet the requirements of Section 73.3580 by providing notice in the newspaper to the public of the filing of an application for assignment of license/permit.

<sup>7</sup> Broadcast notices require a broadcast station licensee to give notice of the filing of an application for assignment of license/permit by broadcasting announcements on the broadcaster’s station. We estimate that 50% of the respondents will meet the requirements of Section 73.3580 by broadcasting their notices over the air.

<sup>8</sup> The R&O, FCC 09-59, adds an additional 875 burden hours to this information collection. Also, the burden for the respondent to attach waiver showings/filings to the form/application pursuant to 47 CFR 73.3555(d) is accounted for in the burden estimate. It is included in the hourly burden of 1.25 per application.

<sup>9</sup> The R&O, FCC 09-59, adds additional “in-house costs” of \$42,070 to this information collection.

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(or 20% of the applications) do not submit a fee with their applications.

Applicants must give local public notice of the filing of its application for an assignment of license/permit. We estimate that 50% of the respondents (500) will have their notices published in the newspaper to meet notification requirements of Section 73.3580. The cost of this publication is estimated to be \$113.25/publication. The broadcast notices will not incur an additional cost due to the broadcast station licensees providing the notice over the air, no newspaper publication is required.

1,700 Forms 345 x 7.25 hrs. attorney processing x \$200/hr	=	\$2,465,000
1,360 feeable applications x \$115/application	=	\$ 156,400
\$113.25/publication x 500 applications (Section 73.3580(c) and (g))	=	<u>\$ 56,625</u>
<b>Total Annual Cost Burden</b>	=	<b>\$2,678,025<sup>10</sup></b>

14. **Cost to the Federal Government.** The Commission will use staff at the GS-5, step 5 level (\$18.07/hour) and GS-13, step 5 level (\$47.21 /hour) to process these applications.

\$18.07 x 1 hour/processing x 1,700 applications	=	\$ 30,719.00
\$47.21 x 2 hours/processing x 1,700 applications	=	<u>\$160,514.00</u>
<b>Total Cost to the Federal Government</b>	=	<b>\$191,233.00</b>

15. **Reason for Changes in Burden or Cost:** 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 *Report and Order*, the Commission adopted changes to the FM translator rules that would allow AM stations to use authorized FM translator stations to rebroadcast the AM signal locally, retransmitting their AM programming as a “fill-in” service. The adopted cross service translating rules limit FM translators to providing “fill-in” service only, specifically within the AM primary station’s authorized service area. In addition, the Commission limited the cross-service rule changes to “currently authorized FM translators,” that is, those translators with licenses or permit in effect as of May 1, 2009. Therefore, the rules and form changes are adding a program change to this information collection that increases the number of respondents by +700, responses by +700, annual burden hours by +875 hours and annual cost burden by +\$1,079,400 for this collection.

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

17. **Display of OMB Approval Date:** An extension of the waiver not to publish the expiration date on the form is requested. This will prevent the Commission from needing to update electronic files upon the expiration of the clearance. The expiration date of the information collection will be displayed at 47 C.F.R. Section 0.408.

18. **Exceptions to the Certification Statement:** There are exceptions to the Certification Statement for the following items: number of respondents, estimated time per response, annual burden hours and annual cost burden. These numbers were different as published in the Commission’s 60-day Federal Register Notice (*see* 72 FR 62616) from what is currently stated in this supporting statement due to revisions that were made to collection 3060-0075. These revisions were due to other rulemakings outside of FCC 09-59. Also, state, local and tribal governments and not for profit institutions are respondents to this information collection and

<sup>10</sup> The R&O, FCC 09-59, adds an additional cost burden of \$1,079,400 to this information collection.

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the recordkeeping requirement for FCC Form 345 is approved under OMB control number 3060-0214 and should not have been stated on the Notice. There are no other exceptions to the Certification Statement.

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

No statistical methods are employed.