

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 along with the application, pursuant to Section 73.3527.¹ 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 January 28, 2010, the Commission adopted a *First Report and Order and Further Notice of Proposed Rulemaking* (the "Order") in MB Docket No. 09-52; FCC 10-24. The Order adopts rule changes designed to streamline and clarify certain procedures associated with the award of broadcast radio construction permits by competitive bidding. In the Order, the Commission also adopted a priority under Section 307(b) of the Communications Act of 1934, as amended, to assist federally recognized Native American Tribes and Alaska Native Villages ("Tribes"), enrolled members of Tribes, and entities primarily owned or controlled by Tribes or

¹ The recordkeeping information collection requirement is contained in OMB Control Number 3060-0214, which covers Section 73.3527.

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enrolled members of Tribes, in obtaining broadcast radio construction permits designed primarily to serve tribal lands (the “Tribal Priority”). Applicants affiliated with Tribes who meet certain conditions regarding tribal membership and signal coverage qualify for the Tribal Priority, which in most cases will enable the qualifying applicants to obtain construction permits without proceeding to competitive bidding, in the case of commercial stations, or to point system evaluation, in the case of noncommercial educational (“NCE”) stations. Once a permit is obtained, it cannot be assigned or transferred to another person or entity for a period beginning with issuance of the construction permit until the station has completed four years of on-air operations, unless the assignee or transferee also qualifies for the Tribal Priority.

Consistent with actions taken by the Commission in the Order, the following changes are made to Forms 314 and 315²: Section I of each form includes a new question asking applicants to indicate whether any of the authorizations involved in the transaction were obtained (or, in the case of non-reserved band commercial FM stations) the allotment for the station was obtained through the Tribal Priority. The instructions for Section I of Forms 314 and 315 have been revised to assist applicants with completing the new questions.

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

² 47 CFR Section 73.7002(c) is the rule section that is being amended by the Commission and resulted in FCC Forms 314 and 315 being revised.

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with the guidelines in 5 CFR §1320.5(d) (2).

8. Public Comment Period: Opportunity for public comment on the information collection requirements contained in this supporting statement has been published in a notice in the Federal Register at 75 FR 6663, on February 10, 2010. No comments were received from the public.

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	2.1 hours	2,142
LPFM Transactions	60	2 hours	120
LPFM Transactions	60	6 hours	360
Multiple Station Transactions	2,980	3.1 hours	9,238
Pending Applications	600	3.1 hours	1,860
Waivers	100	5.5 hours ³	550
Sec. 73.3580(c) newspaper notice	3,850	1 hour	3,850
Sec. 73.3580(d) broadcast notice	3,850	0.084 hour	323
TOTALS:	12,520 Responses		18,443 Hours

Total Number of Respondents: 4,820 Licensees/Permittees

Total Number of Responses: 12,520 responses

Total Annual Burden Hours: 18,443 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 2.1 hours (2 hours and 6 minutes) per application.

* We assume that 50% of the respondents for LPFM stations (60 respondents) will consult with an

³ 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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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 application themselves. We estimate that these respondents will spend 6 hours preparing the application.

*We also estimate that the respondent will spend 2.1 hours in consultation with an attorney and 1 hour in consultation with a consulting engineer for a total of 3.1 hours (3 hours and six minutes) in the preparation of a multiple ownership analysis in connection with a multiple station transaction. Also, 3.1 hours will also be spent by the respondent in preparation to amend a pending application. The preparation of a waiver of the multiple ownership rules and cross-ownership rules will take the respondent 5.5 hours to complete.

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

*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:

Services/Rule Sections	Number of Applications	Respondent’s Hrly. Burden	Respondent’s Hrly. Wage	Annual “In-House Cost
Single AM/FM/TV	1,020	2.1 hours	\$48.08	\$102,987.36
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	3.1 hours	\$48.08	\$444,163.04
Pending Applications	600	3.1 hours	\$48.08	\$89,428.80
Waivers	100	5.5 hours	\$48.08	\$26,444.00
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
Total Annual In-House Cost:				\$886,758.67

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

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13. **Annual Cost Burden:** We assume that the respondents would use an attorney to 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 13.1 hours (13 hours and six minutes) 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 44.1 hours (44 hours and six minutes) 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.⁴ 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 47.5 hours per application and an engineer an average of 2 hours.

* We estimate that it will take an attorney 1.1 hours (1 hour and 6 minutes) 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.

⁴ The contour-overlap methodology defines 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.

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*We estimate that the average cost for an attorney is \$300/hour and the average cost for a consulting engineer is \$250/hour.

1,020 single AM/FM/TV applications x \$300/hour x 13.1 hours =	\$4,008,600
60 LPFM applications (50% of the Applications) x \$300/hour x 4 hours =	\$ 48,000
2,980 multiple AM/FM/TV applications x \$300/hour x 44.1 hours =	\$39,425,400
600 pending applications x \$300/hour x 1.1 hours =	\$ 198,000
100 waiver applications x \$300/hour x 47.5 hours =	<u>\$1,425,000</u>
Annual Cost Burden (Attorney):	\$45,105,000

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

1,788 multiple AM/FM/TV applications x \$250/hour x 1 hour =	\$447,000
1,192 multiple AM/FM/TV applications x \$250/hour x 2 hours =	\$596,000
600 pending applications x \$250/hour x 2 hours =	\$300,000
100 waiver applications x \$250/hour x 2 hours =	<u>\$ 50,000</u>
Annual Cost Burden (Engineer):	\$1,393,000

(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 ⁵ newspaper notices x 4 publications x \$113.25/publication =	<u>\$1,744,050</u>
Annual Cost Burden (Fees):	\$5,246,650

Total Annual Cost Burden: \$45,105,000 + 1,393,000 + \$5,246,650 = **\$51,744,650**

14. Cost to Federal Government: The Commission will use professional staff at the GS-14/Step 5 level (\$55.78/hour), paraprofessional staff at the GS-11/Step 5 level (\$33.12/hour) and clerical staff at the GS-5/Step 5 level (\$18.07/hour) to process these applications.

Single AM/FM/TV applications:	
1,020 applications x \$55.78/hour x 1.1 hours =	\$ 62,585.16
1,020 applications x \$33.12/hour x 1.1 hours =	\$ 37,160.64
1,020 applications x \$18.07/hour x 0.6 hour =	<u>\$ 11,058.84</u>
	\$110,804.64

⁵ 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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Single LPFM applications:

120 applications x \$55.78/hour x 1 hours =	\$6,693.60
120 applications x \$33.12/hour x 1 hour =	<u>\$3,974.40</u>
	\$10,668.00

Multiple Station applications:

2,980 applications x \$55.78/hour x 41.1 hours =	\$6,831,822.80
2,980 applications x \$33.12/hour x 1.1 hour =	\$ 108,567.36
2,980 applications x \$18.07/hour x 0.6 hours =	<u>\$ 32,309.16</u>
	\$6,972,699.30

Pending Applications:

600 applications x \$55.78/hour x 41.1 hours =	\$1,375,534.80
600 applications x \$33.12/hour x 1.1 hour =	\$ 21,859.20
600 applications x \$18.07/hour x 0.6 hours =	<u>\$ 64,800.00</u>
	\$1,462,194.00

Waivers:

100 applications x \$55.78/hour x 43.5 hours =	\$ 242,643.00
100 applications x \$33.12/hour x 1.5 hours =	\$ 4,968.00
100 applications x \$18.07/hour x 1 hour =	<u>\$ 1,807.00</u>
	\$249,418.00

Total Cost to the Federal Government:

\$8,805,783.90

15. Reason for Changes in Burden or Cost: We have program changes to the annual cost burden of +\$48,200 and +510.00 to the annual burden hours due to the adoption of information collection requirements contained in the Order.⁶ The rules which impose information collection requirements are designed to facilitate opportunities for participation in the broadcasting industry by members of Native American Tribes and Alaska Native Villages who avail themselves of the Tribal Priority but may need or desire to assign or transfer stations obtained using the Tribal Priority.

The Commission also has adjustments to the total annual cost burden of +\$15,630,000 which are due to increases in consulting 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

⁶ The Order is FCC 10-24 adopted on January 28, 2010.

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Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.