

**SUPPORTING STATEMENT****A. Justification:**

1. FCC Form 301 is used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction. For applicants to seek a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach to FCC Form 301 an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b) of the Communications Act of 1934, as amended.

Similarly, to receive authorization for commencement of Digital Television ("DTV") operations, commercial broadcast licensees must file FCC Form 301 for a construction permit. The application may be filed anytime after receiving the initial DTV allotment and before mid-point in the applicant's construction period. The Commission will consider the application as a minor change in facilities. Applicants will not have to provide full legal or financial qualification information.

This collection also includes the third party disclosure requirement of 47 CFR § 73.3580. This rule requires applicants to provide local public notice, in a newspaper of general circulation published in a community in which a station is located, of requests for new or major changes in facilities and for changes of a station's community of license by AM and non-reserved band FM permittees and licensees. The notice must be completed within 30 days of tendering the application and must be published at least twice a week for two consecutive weeks in a three-week period. A copy of the notice and the application must be placed in the station's public inspection file, pursuant to Section 73.3527.<sup>1</sup>

**Revised Information Collections Requirements Which Require 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 changes to certain procedures associated with the award of broadcast radio construction permits by competitive bidding, including modifications to the manner in which it awards preferences to applicants under the provisions of Section 307(b) of the Communications Act of 1934, as amended (the "Act").<sup>2</sup> With regard to AM application processing, the Commission adopted a proposal to explicitly prohibit the downgrading of proposed AM facilities that receive a dispositive preference under Section 307(b) of the Act and thus are not awarded through competitive bidding. Specifically, an AM applicant that receives a dispositive preference under Section 307(b) will not be allowed to later modify that proposal to serve a smaller population or

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

<sup>2</sup> With respect to AM applications, a traditional Section 307(b) analysis is undertaken by the staff prior to conducting auctions of competing applications. If the staff's Section 307(b) determination is dispositive, the staff will grant the preferred application and the competing applicants in the group do not proceed to auction.

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otherwise negate the factors that led to the award of the preference.<sup>3</sup> The Commission imposed these restrictions for a period of four years of on-air operations. These procedural safeguards are necessary to protect the integrity of our Section 307(b) analyses.

Consistent with actions taken by the Commission in the *Order*, FCC Form 301<sup>4</sup> has been revised to add questions, specifically asking the applicants to certify that the construction permit application complies with the four year service requirements. The instructions for FCC Form 301 have been revised to assist applicants with completing the new questions. **(This revision to FCC Form 301 needs OMB approval).**

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 Form 301 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.

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 amendments to determine the community having the greater need and to deter possible abuses of the processes. Therefore, this information collection will not have a significant economic impact on small entities/businesses.

6. **Less Frequent Data Collection:** The frequency for filing the DTV station application will vary depending on the market. For all other uses of FCC Form 301, the frequency of filing is determined by the respondents. However, no new or modified AM, FM, TV, or DTV facilities can be obtained or modified without using FCC Form 301.

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* (75 FR 6663) on February 10, 2010. No comments were received from the public.

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<sup>3</sup> An AM applicant receiving a Section 307(b) preference may modify its facilities so long as the proposed modification does not result in a decrease of more than 20 percent of the population figure that was a factor in obtaining the preference. This requirement is referred to in the *Order* as the “substantial equivalency” standard. Similarly, applicants that received a Section 307(b) preference for proposing the first local transmission service to a community are restricted from changing the community of license.

<sup>4</sup> 47 CFR Section 73.3571 is the rule section that is being amended to add a new subsection (k) to the rule and resulted in FCC Form 301 being revised.

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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 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:** The following estimates are provided for public burden for this information collection:

<u>Services</u>	<u>Number of Applicants</u>
AM New & Major	476
AM Minor Change With AM Multiple Ownership Showings	250
AM Community of License Minor Change Applications	285
	70
FM New & Major	298
FM Minor Change With FM Multiple Ownership Showings	1,200
FM Community of License Minor Change Applications	274
	50
TV Minor Change	200
DTV	1,220
With TV Multiple Ownership Showings	30
DTS	<u>100</u>
<b>Total Number of Respondents:</b>	<b>4,453 Licensees/Permittees</b>

<u>Number of Services</u>	<u>Respondent's Applications</u>	<u>Annual Hrly. Burden</u>	<u>Burden Hours</u>
AM New & Major	476	4.25 hours	2,023 hours
AM Minor Change With AM Multiple Ownership Showings	250	3.25 hours	812.50 hours
AM Community of License Minor Change Applications	285	6.25 hours	1,781.25 hours
	70	4.25 hours	297.50 hours
FM New & Major	298	4 hours	1,192 hours
FM Minor Change With FM Multiple Ownership Showings	1,200	3 hours	3,600 hours
FM Community of License Minor Change Applications	274	6 hours	1,644 hours
	50	4 hours	200 hours

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TV Minor Change	200	3 hours	600 hours
DTV	1,220	3 hours	3,660 hours
With TV Multiple Ownership Showings	30	5 hours	15 hours
DTS <sup>5</sup>	100	3 hours	300 hours
Newspaper Requirements	<u>3,436</u>	1 hour	<u>3,436 hours</u>
<b>Totals:</b>	<b>7,889</b>		<b>19,561 hours</b>
	<b>(responses)</b>		

**Total Number of Responses: 7,889 FCC Form 301 Filings and Newspaper Notices**

**Total Annual Burden Hours: 19,561 hours**

We assume that the respondent would consult with an outside attorney and a consulting engineer to complete an FCC Form 301. The time spent in consultation with these attorneys and consulting engineer will vary depending upon the application type.

The Commission estimates that it will take the respondent one hour to fulfill the newspaper notice requirement.

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

<u>Services</u>	<u>Number of Applications</u>	<u>Respondent's Hrly. Burden</u>	<u>Hrly. Wage of Respondent</u>	<u>Annual In-House Cost</u>
AM New & Major	476	4.25 hours	\$48.08	\$97,265.84
AM Minor Change	250	3.25 hours	\$48.08	\$39,065.00
AM Ownership Showings	285	6.25 hours	\$48.08	\$85,642.50
AM Community of License Change	70	4.25 hours	\$48.08	\$14,303.80
FM New & Major	298	4 hours	\$48.08	\$57,311.36
FM Minor Change	1,200	3 hours	\$48.08	\$173,088.00
FM Ownership Showings	274	6 hours	\$48.08	\$79,043.52
FM Community of License Change	50	4 hours	\$48.08	\$9,616.00
TV Minor Change	200	3 hours	\$48.08	\$28,848.00
DTV	1,220	3 hours	\$48.08	\$175,972.80
TV Multiple Ownership Showings	30	5 hours	\$48.08	\$7,212.00
DTS	100	3 hours	\$48.08	\$14,424.00
Newspaper Notices	3,436	1 hour	\$48.08	<u>\$165,202.88</u>

<sup>5</sup> DTS technologies are covered under 47 CFR § 73.626, which authorizes the use of distributed transmission system ("DTS") technologies in the digital television ("DTV") service and also authorized changes to FCC Form 301 that are necessary to accommodate applications for a DTS facility.

Total Annual "In House" Cost: \$946,995.70

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

13. **Cost to Respondents:** We assume that the applicant would use an attorney (\$300/hour) and a consulting engineer (\$250/hour) to complete the FCC Form 301.

An AM, FM, or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. 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.

<u>Services</u>	<u>Hrly. Wage of Consultant</u>	<u>Consultant's Hrly. Burden</u>	<u>Number of Applications</u>	<u>Annual Cost Burden</u>
<b><u>AM:</u></b>				
New & Major	\$300	7 hours	476	\$ 999,600
	\$250	89.25 hours	476	\$10,620,750
Minor Change	\$300	2 hours	250	\$ 150,000
	\$250	88.25 hours	250	\$5,515,625
Multiple Ownership Showings	\$300	18 hours	285	\$1,539,000
	\$250	92.25 hours	285	\$6,572,813
Community of License Change	\$300	8 hours	70	\$ 168,000
	\$250	90.25 hours	70	\$1,579,375
<b><u>FM:</u></b>				
New & Major	\$300	7 hours	298	\$ 625,800
	\$250	71 hours	298	\$5,289,500
Minor Change	\$300	2 hours	1,200	\$ 720,000
	\$250	69 hours	1,200	\$20,700,000
Multiple Ownership Showings	\$300	28 hours	274	\$ 2,301,600
	\$250	73 hours	274	\$ 5,000,500
Community of License Change	\$300	2 hours	50	\$ 30,000
	\$250	70 hours	50	\$ 875,000
<b><u>TV:</u></b>				
Minor Change	\$300	2 hours	200	\$ 120,000
	\$250	45 hours	200	\$2,250,000
<b><u>DTV:</u></b>	\$300	2 hours	1,220	\$ 732,000
	\$250	34 hours	1,220	\$10,370,000

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Multiple Ownership	\$300	13 hours	30	\$ 117,000
Showings	\$250	48 hours	30	\$ 360,000
<b>DTS:</b>	\$300	1 hour	100	\$ 30,000
	\$250	45 hours	100	<u>\$1,125,000</u>
<b>Total AM/FM TV and DTV:</b>				<b>\$77,791,562</b>

<b>Fees:</b>	<b>Number of Applications</b>	<b>Fee Cost</b>	<b>Total Fee Cost</b>
AM New & Major	476	\$3,310	\$1,575,560
AM Minor Change	250	\$ 830	\$ 207,500
AM Multiple Ownership Showings	285	\$3,310	\$ 943,350
AM Community of License Change	70	\$ 830	\$ 58,100
FM New & Major	298	\$2,980	\$ 888,040
FM Minor Change	1,200	\$ 830	\$ 996,000
FM Multiple Ownership Showings	274	\$2,980	\$ 816,520
FM Community of License Change	50	\$ 830	\$ 41,500
TV Minor Change	200	\$ 830	\$ 166,000
DTV	1,220	\$ 830	\$ 1,012,600
TV Multiple Ownership Showings	30	\$3,720	\$ 111,600
DTS	100	\$ 830	<u>\$ 83,000</u>
<b>Fee Total:</b>			<b>\$6,899,770</b>

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894<sup>6</sup> new/major/community of license change applications x 4 x \$113.25 = **\$404,982** in publication costs

**Annual Cost Burden:** \$77,791,562 + \$6,899,770 + \$404,982 = **\$85,096,314**

**14. Cost to Federal Government:** The Commission will use legal and engineering 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 level/Step 5 level (\$18.07/hour) to process these applications.

New & Major Change AM/FM/TV Applications = 774<sup>7</sup>

774 applications x \$55.78/hour x 41 hours =	\$1,770,122.50
774 applications x \$55.78/hour x 20 hours =	\$ 863,474.40

774 applications x \$33.12/hour x 1 hour =	\$ 25,634.88
774 applications x \$18.07/hour x 2 hours =	<u>\$ 27,972.36</u>
	<b>\$2,687,204.10</b>

Minor AM Applications = 250  
 AM Multiple Ownership Showings = 285  
 AM Community of License Change Minor Applications = 70

605 applications x \$55.78/hour x 1 hour =	\$ 33,746.90
605 applications x \$55.78/hour x 30 hours =	\$1,012,407.00
(No GS-11 Step-5 paraprofessional review required)	
605 applications x \$18.07/hour x 2 hours =	<u>\$ 21,864.70</u>
	<b>\$1,068,018.60</b>

Minor FM Applications = 1,200  
 FM Multiple Ownership Showings = 274  
 FM Community of License Change Minor Applications = 50

1,524 applications x \$55.78/hour x 1 hour =	\$ 85,008.72
1,524 applications x \$55.78/hour x 20 hours =	\$1,700,174.40
(No GS-11 Step 5 paraprofessional review required)	
1,524 applications x \$18.07/hour x 2 hours =	<u>\$ 55,077.36</u>
	<b>\$1,840,260.40</b>

Minor TV Applications = 200  
 DTV Applications = 1,220  
 TV Multiple Ownership Showings = 30

1,450 applications x \$55.78/hour x 1 hour =	\$ 80,881.00
1,450 applications x \$55.78/hour x 20 hours =	\$2,678,778.70

<sup>6</sup> This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications + 70 AM Community of License Change Applications + 50 FM Community of License Change Applications = 894 Applications.

<sup>7</sup> This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications = 774 Applications.

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1,450 applications x \$33.12/hour x 6 hours =	\$ 288,144.00
1,450 applications x \$18.07/hour x 2 hours =	\$ 52,403.00
	<b>\$3,100,206.70</b>

DTS Applications = 100

(No GS-14 Step 5 legal review required)

100 applications x \$55.78/hour x 20 hours =	\$111,560.00
100 applications x \$33.12/hour x 6 hours =	\$ 19,872.00
100 applications x \$18.07/hour x 2 hours =	\$ 3,614.00
	<b>\$135,046.00</b>

**Total Cost to the Federal Government: \$8,830,735.80**

15. **Reason for Changes in Burden or Cost:** The Commission has program changes to the annual burden hours of +270 hours and cost burden of +\$40,537.50 (\$40,538 rounded) due to the adoption of information collection requirements contained in the *Order*. The increases are due to revisions made to FCC 301 to include a new question asking AM broadcast applicants to certify that the construction permit application complies with the four year “substantial equivalency” service requirements if the AM facility that is the subject of the application was awarded on the basis of a dispositive Section 307(b) preference. These changes reflect an increase by one quarter hour per application for AM applicants and/or their consulting engineers to evaluate compliance with FCC rules and assess whether the facility provides service substantially as proposed for those applicants that had received a dispositive preference under Section 307(b) of the Act. We also made modifications to the instructions for the Legal Section (Instructions, Section III A - AM Engineering) of Form 301 that do not add burdens because they are editorial in nature.

The Commission also had adjustments to the annual cost burden of +\$40,614,424 which were 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 Statement.

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

This information collection does not employ any statistical methods.