

**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.<sup>1</sup> 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 ("Rural First R&O") in MB Docket No. 09-52, FCC 10-24, 25 FCC Rcd 1583 (2010).<sup>2</sup> In the Rural First R&O, the Commission adopted a Tribal 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") and entities primarily owned or controlled by Tribes in obtaining broadcast radio construction permits designed primarily to serve Tribal Lands (the "Tribal Priority"). Tribal affiliated applicants that 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 radio construction permits without proceeding to competitive bidding, in the case of commercial stations, or to a point system evaluation, in the case of noncommercial educational ("NCE") stations.

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

<sup>2</sup> The Office of Management and Budget (OMB) approved the information collection requirements contained in FCC 10-24 on June 4, 2010, and approved the information collection requirements in FCC 11-28 on July 5, 2011. The Commission recently received OMB approval of the information collection requirement contained in OMB Control Number 3060-0027, stemming from FCC 11-190, on April 27, 2012.

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On March 3, 2011, the Commission adopted a Second Report and Order (“Rural Second R&O”), First Order on Reconsideration, and Second Further Notice of Proposed Rule Making in MB Docket No. 09-52, FCC 11-28, 26 FCC Rcd 2556 (2011). On December 28, 2011, the Commission adopted a Third Report and Order in MB Docket No. 09-52, FCC 11-190, 26 FCC Rcd 17642 (2011) (“Rural Third R&O”). In the Rural Third R&O the Commission further refined the use of the Tribal Priority in the commercial FM radio context, specifically adopting a “Threshold Qualifications” approach to commercial FM application processing.<sup>3</sup>

Furthermore, under the Commission’s Tribal Priority procedures, entities obtaining:

- (a) an AM authorization for which the applicant claimed and received a dispositive Section 307(b) priority because it qualified for the Tribal Priority; or
- (b) an FM commercial non-reserved band station awarded:
  - (1) to the applicant as a singleton Threshold Qualifications Window applicant,
  - (2) to the applicant after a settlement among Threshold Qualifications Window applicants, or
  - (3) to the applicant after an auction among a closed group of bidders composed only of threshold qualified Tribal applicants; or
- (c) a reserved-band NCE FM station for which the applicant claimed and received the Tribal Priority in a fair distribution analysis as set forth in 47 C.F.R. § 73.7002(b)(1),

may not assign or transfer the authorization during the 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.<sup>4</sup> Pursuant to procedures set forth in the Rural Third R&O, 26 FCC Rcd at 17645-50, the Tribal Priority Holding Period is now applied in the context of authorizations obtained using Tribal Priority Threshold Qualifications.

Consistent with actions taken by the Commission in the Rural Third R&O, the following changes are made to Forms 314 and 315: Section I of each form includes a question asking applicants to indicate whether any of the authorizations involved in the subject transaction were obtained: after award of a dispositive Section 307(b) preference using the Tribal Priority; through Threshold Qualification procedures; or through the Tribal Priority as applied before the NCE fair distribution analysis. A subsequent question then asks whether both the assignor/transferor and assignee/transferee qualify for the Tribal Priority in all respects. Applicants not meeting the Tribal Priority qualifications and proposing an assignment or transfer during the Holding Period must provide an exhibit demonstrating that the transaction is consistent with the Tribal Priority policies or that a waiver is warranted. The instructions for Section I of Forms 314 and 315 have been revised to assist applicants with completing the questions.

This information collection does not affect individuals or households; thus, there are no impacts

<sup>3</sup> The “Threshold Qualifications” approach derives from Section 309(j)(6)(E) of the Act, which states that “Nothing in this subsection, or in the use of competitive bidding, shall ...be construed to relieve the Commission of the obligation in the public interest to use ...threshold qualifications . . . in order to avoid mutual exclusivity in application and licensing proceedings.”

<sup>4</sup> This four-year restriction on the assignment or transfer of an authorization obtained using the Tribal Priority is referred to as the “Tribal Priority Holding Period.”

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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 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 the information collection requirements contained in this supporting statement has been published in a notice in the Federal Register 77 FR 37672, on June 22, 2012. 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 <sup>5</sup>	550

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Transactions involving a Tribal Priority Authorization	20	2.1 hours	42
Sec. 73.3580(c) newspaper notice	4,020	1 hour	4,020
Sec. 73.3580(d) broadcast notice	4,020	0.084 hour	338
<b>TOTALS:</b>	<b>12,880 Responses</b>		<b>18,670 Hours</b>

**Total Number of Respondents: 4,840 Licensees/Permittees**

**Total Number of Responses: 12,880 responses**

**Total Annual Burden Hours: 18,670 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 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 sent 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 estimate that transactions involving Tribal Priority Authorizations will take the respondent 2.1 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:**

<sup>5</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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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
Transactions involving a Tribal Priority Authorization	20	2.1 hours	\$48.08	\$2,019.36
73.3580(c) newspaper notice	4,020	1 hour	\$48.08	\$193,281.60
§73.3580(d) broadcast notice	4,020	0.084 hours	\$48.08	\$16,235.65
<b>Total Annual In-House Cost:</b>				<b>\$897,638.21</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 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.<sup>6</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 47.5 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.

\*We estimate that an attorney will take 13.1 hours to file Tribal Priority applications and engineering time for these applications will be 2 hours per application.

<sup>6</sup> The contour-overlap methodology defines the total number of stations existing in the "market" as (i) the station(s) owned by the entity and (ii) all other stations whose city-grade contours overlap any part of any of the contours of the station(s) owned by the entity.

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\*An applicant must also submit a fee (\$970/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.

\*An applicant filing a Tribal Priority application will submit a \$970/station filing fee.

\*Non-commercial educational (“NCE”) stations and stations that are the only operating station in their broadcast service in their community of license that are 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 \$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 =	\$ 1,425,000
20 Tribal Priority applications x \$300/hour x 13.1 hours =	<u>\$ 78,600</u>
<b>Annual Cost Burden (Attorney):</b>	<b>\$45,183,600</b>

(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 =	\$ 50,000
20 Tribal Priority applications x \$250/hour x 2 hours =	<u>\$ 10,000</u>
<b>Annual Cost Burden (Engineer):</b>	<b>\$1,403,000</b>

(There is no fee required for pending applications).

1,020 single applications x \$970 filing fee/station =	\$ 989,400
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120 LPFM applications x \$970 filing fee/station =	\$ 116,400
2,980 multiple AM/FM/TV applications x \$970 filing fee/station =	\$2,890,600
100 waivers x \$970 filing fee/station =	\$ 97,000
20 Tribal Priority applications x \$970 filing fee/station =	\$ 19,400
4,020 <sup>7</sup> newspaper notices x 4 publications x \$113.25/publication =	<u>\$1,820,256</u>

**Annual Cost Burden (Fees):**

**\$5,933,056**

**Total Annual Cost Burden:** \$45,183,600 + 1,403,000 + \$5,933,056 = **\$52,519,656**

**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

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:

<sup>7</sup> The Commission arrived at the numbers of 4,020 newspaper notices and 4,020 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 broadcast over the air except LPFM applications, waivers and pending applications.

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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
Tribal Priority Applications:	
20 applications x \$55.78/hour x 41.1 hours =	\$ 45,851.16
20 applications x \$33.12/hour x 1.1 hour =	\$ 728.64
20 applications x \$18.07/hour x 1 hour =	<u>\$ 361.40</u>
	\$ 46,941.20

**Total Cost to the Federal Government: \$8,852,725.14**

15. **Reason for Changes in Burden or Cost:** The Commission has program changes to the total number of respondents of +20, to the total number of responses of +20, to the annual burden hours of +42, and to the annual cost burden of +\$108,000, due to the adoption of information collection requirements contained in the Rural Third R&O, FCC 11-190. In particular, the Tribal Priority Holding Period requirements are now applied in the context of authorizations obtained using the Tribal Priority Threshold Qualifications procedures, which were set forth in the Rural Third R&O, 26 FCC Rcd at 17645-50. While designed to facilitate opportunities for participation in the broadcasting industry by Tribes that use a Tribal Priority, the requirements accommodate those Tribes that may need or desire to assign a station that had been obtained using the Tribal Priority.

There are also adjustments to this collection of +340 to the total number of responses, +185 to the to annual burden hours and +\$667,006 to the annual cost burden. The Commission reevaluated some of its numbers from our previous submission to OMB.

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.