

**Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; 47 CFR Section 73.3700****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 (the "Act").

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.

Moreover, to enhance the ability of federally recognized Native American Tribes to provide vital radio services to their citizens on Tribal lands, the Tribal Priority for use in its radio licensing procedures was adopted by the Commission. Therefore, FCC Form 301 is used by applicants when they are applying in a Threshold Qualifications Window for a Tribal Allotment that had been added to the FM Table of Allotments using the Tribal Priority under the "threshold qualifications" procedures.

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:**

On October 2, 2012, the Commission released the Notice of Proposed Rulemaking, *Expanding the Economic and Innovative Opportunities of Spectrum Through Incentive Auctions*, Docket No. 12-268, FCC 12-118 ("IA NPRM"). The IA NPRM contains rules and policies for the incentive auction mandated by Congress in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156 (2012). Following the completion of the incentive auction process, all repacked<sup>2</sup> full power

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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.

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television stations will need to file FCC Form 301 for their new channel facility. **This new requirement is provided in 47 C.F.R. § 73.3700.**

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:** 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 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 applications filed in a TQ Window 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* (77 FR 69934) on November 21, 2012. To date, 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 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:

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<sup>2</sup> Repacking occurs when stations are assigned a new operating channel following completion of the incentive auction process.

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<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
	66
FM New & Major	298
FM New with P4RM to Amend FM Table Using Tribal Priority <sup>3</sup>	20
FM New filed in TQ Window	40
FM Minor Change With FM Multiple Ownership Showings	1,200
FM Community of License Minor Change Applications	274
	145
TV Minor Change	200
DTV With TV Multiple Ownership Showings	1,220
DTS	30
Repacked Full Power Television Stations	100
	<u>1,783<sup>4</sup></u>
<b>Total Number of Respondents:</b>	<b>6,387 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
	66	6 hours	396 hours
FM New & Major	298	4 hours	1,192 hours
FM New with P4RM to Amend FM Table Using Tribal Priority	20	4 hours	80 hours
FM New filed in TQ Window	40	4 hours	160 hours
FM Minor Change With FM Multiple Ownership Showings	1,200	3 hours	3,600 hours
	274	6 hours	1,644 hours

<sup>3</sup> A petitioner seeking to add a Tribal Allotment to the FM Table of Allotments must file FCC Form 301 when submitting its Petition for Rule Making ("P4RM").

<sup>4</sup> This estimate is based on the current number of licensed full power television stations that are involved in repacking.

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FM Community of License Minor Change Applications	145	5.50 hours	797.50 hours
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	3,436	1 hour	3,436 hours
Repacked TV Stations	1,783	6 hours	10,698 hours
<b>Totals:</b>	<b>9,823</b>		<b>31,195.25 hours</b>
	<b>(responses)</b>		<b>(31,195 hrs. rounded)</b>

**Total Number of Responses: 9,823 FCC Form 301 Filings and Newspaper Notices**

**Total Annual Burden Hours: 31,195 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	66	6 hours	\$48.08	\$19,039.68
FM New & Major	298	4 hours	\$48.08	\$57,311.36
FM New with P4RM to Amend				
FM Table Using Tribal Priority	20	4 hours	\$48.08	\$3,846.40
FM New filed in TQ Window	40	4 hours	\$48.08	\$7,692.80
FM Minor Change	1,200	3 hours	\$48.08	\$173,088.00
FM Ownership Showings	274	6 hours	\$48.08	\$79,043.52

<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.

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FM Community of License Change	145	5.50 hours	\$48.08	\$38,343.80
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	\$165,202.88
Repacked Minor Change	1,783	6 hours	\$48.08	\$514,359.84
<b>Total Annual "In House" Cost:</b>				<b>\$1,506,358.42</b>

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	12 hours	66	\$ 237,600
	\$250	100 hours	66	\$1,650,000
<b><u>FM:</u></b>				
New & Major	\$300	7 hours	298	\$ 625,800
	\$250	71 hours	298	\$5,289,500
FM New with P4RM to Amend FM Table Using Tribal Priority	\$300	7 hours	20	\$ 42,000
	\$250	71 hours	20	\$ 355,000
FM New filed in				

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TQ Window	\$300	7 hours	40	\$ 84,000
	\$250	71 hours	40	\$ 710,000
Minor Change	\$300	2 hours	1,200	\$ 720,000
	\$250	69 hours	1,200	\$20,700,000
Multiple Ownership	\$300	28 hours	274	\$ 2,301,600
Showings	\$250	73 hours	274	\$ 5,000,500
Community of License	\$300	6 hours	145	\$ 261,000
Change	\$250	94 hours	145	\$ 3,407,500

**TV:**

Minor Change	\$300	2 hours	200	\$ 120,000
	\$250	45 hours	200	\$2,250,000

**DTV:**

	\$300	2 hours	1,220	\$ 732,000
	\$250	34 hours	1,220	\$10,370,000

Multiple Ownership	\$300	13 hours	30	\$ 117,000
Showings	\$250	48 hours	30	\$ 360,000

Repacked TV	\$300	2 hours	1,783	\$1,069,800
	\$250	34 hours	1,783	\$15,155,500

**DTS:**

	\$300	1 hour	100	\$ 30,000
	\$250	45 hours	100	<u>\$1,125,000</u>

**Total AM/FM TV and DTV: \$98,111,588**

<b><u>Fees:</u></b>	<b><u>Number of Applications</u></b>	<b><u>Fee Cost</u></b>	<b><u>Total Fee Cost</u></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	66	\$ 830	\$ 54,780
FM New & Major	298	\$3,485	\$1,038,530
FM New with P4RM to Amend FM Table Using			

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Tribal Priority	20	\$3,485	\$ 69,700
FM New filed in TQ Window	40	\$3,485	\$ 139,400
FM Minor Change	1,200	\$ 830	\$ 996,000
FM Multiple Ownership Showings	274	\$2,980	\$ 816,520
FM Community of License Change	145	\$ 830	\$ 120,350
TV Minor Change	200	\$ 830	\$ 166,000
Repacked TV	1,783	\$ 830	\$1,479,890
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>\$8,814,780</b>

985<sup>6</sup> new/major/community of license change applications x 4 x \$113.25 = **\$446,205** in publication costs

**Annual Cost Burden:** \$98,111,588 + \$8,814,780 + 446,205 = **\$107,372,573**

**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 = 834<sup>7</sup>

834 applications x \$55.78/hour x 41 hours =	\$1,907,341.30
834 applications x \$55.78/hour x 20 hours =	\$ 930,410.40
834 applications x \$33.12/hour x 1 hour =	\$ 27,622.08
834 applications x \$18.07/hour x 2 hours =	<u>\$ 30,140.76</u>
	<b>\$2,895,514.54</b>

Minor AM Applications = 250

<sup>6</sup> This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications + 66 AM Community of License Change Applications + 145 FM Community of License Change Applications = 985 Applications.

<sup>7</sup> This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications + 60 FM New Tribal-related applications = 834 Applications.

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AM Multiple Ownership Showings = 285

AM Community of License Change Minor Applications = 66

601 applications x \$55.78/hour x 1 hour =	\$ 33,523.78
601 applications x \$55.78/hour x 30 hours =	\$1,005,713.40
(No GS-11 Step-5 paraprofessional review required)	
601 applications x \$18.07/hour x 2 hours =	<u>\$ 21,720.14</u>
	<b>\$1,060,957.32</b>

Minor FM Applications = 1,200

FM Multiple Ownership Showings = 274

FM Community of License Change Minor Applications = 145

1,619 applications x \$55.78/hour x 1 hour =	\$ 90,307.82
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1,619 applications x \$55.78/hour x 20 hours =	\$1,806,156.40
(No GS-11 Step 5 paraprofessional review required)	
1,619 applications x \$18.07/hour x 2 hours =	<u>\$ 58,510.66</u>
	<b>\$1,954,974.88</b>

Minor TV Applications = 200

DTV Applications = 1,220

TV Multiple Ownership Showings = 30

Repacked TV Applications = 1,783

3,233 applications x \$55.78/hour x 1 hour =	\$ 180,336.74
3,233 applications x \$55.78/hour x 20 hours =	\$3,606,734.80
3,233 applications x \$33.12/hour x 6 hours =	\$ 642,461.76
3,233 applications x \$18.07/hour x 2 hours =	<u>\$ 116,840.62</u>
	<b>\$4,546,373.80</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 =	<u>\$ 3,614.00</u>
	<b>\$135,046.00</b>

**Total Cost to the Federal Government:**

**\$10,592,866.54**

**15. Reason for Changes in Burden or Cost:** If the proposed requirements contained in FCC 12-118 are adopted in a final rulemaking by the Commission 1,783 respondents, 1,783 responses, 10,698 burden hours and \$16,562,701 in annual cost will be added to OMB's inventory.

The Commission also has adjustments to the annual cost burden of \$150,490 which are due to increases in filing fees for FM New and Major Applications from \$2,980 to \$3,485.



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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.