

Title: Application for Authority to Construct or Make Changes in a Class A Television Broadcast Station, FCC Form 301-CA; 47 CFR Section 74.793(d); 47 CFR Section 73.3700

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 301-CA is to be used in all cases by a Class A television station licensee¹ seeking to make changes in the authorized facilities of such station. The FCC Form 301-CA requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 301-CA provide additional information regarding Commission rules and policies. The FCC 301-CA application is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation.² Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy.

Class A applicants are also subject to third party disclosure requirement of Section 73.3580 which requires local public notice in a newspaper of general circulation of the filing of all applications for major changes in facilities. 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 must be placed in the public inspection file along with the application.³

47 CFR Section 74.793(d) requires that digital low power and TV translator stations shall be required to submit information as to vertical radiation patterns as part of their applications (FCC Forms 346⁴ and 301-CA) for new or modified construction permits.

REVISED INFORMATION COLLECTION REQUIREMENTS:

¹ Class A television stations are low power television licensees which, during the 90-day period ending November 28, 1999, operated their stations in a manner consistent with the programming and operational standards set forth in the Community Broadcasters Protection Act of 1999, and thus, were accorded primary status as Class A television licensees. See 47 C.F.R. Section 73.6001(a).

² A "material representation" has been defined as one "relating to matter which is so substantial or important as to influence the party to whom it is made." See In the Matter of Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission, 18 F.C.C.R. 4016 (2003), citing the Matter of Mark E. Wagner, 744 N.E. 2d 418, 421 (Ind. 2001).

³ See OMB control number 3060-0214 for the burden associated with the recordkeeping requirement for the newspaper notices and application pursuant to Section 73.3527.

⁴ See OMB control number 3060-0016 for the associated burden for FCC Form 346 as it relates to Section 74.793(d).

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

This information collection does not affect individuals, thus there are no Privacy Act impacts.

Statutory authority for this collection of information is contained in Sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended and the Community Broadcasters Protection Act of 1999.

2. The FCC Form 301-CA is designed to track the standards and criteria, which the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent.
3. The Commission requires applicants to file FCC Form 301-CA electronically.
4. No other agency imposes a similar information collection on the respondents. There is no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. Therefore, this collection of information will not have a significant economic impact on a substantial number of small entities/businesses.
6. The frequency for filing is determined by respondents, as necessary.
7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).
8. The Commission published a Notice (77 FR 69934) in the *Federal Register* on November 21, 2012 seeking public comment on the proposed information collection requirements contained in this supporting statements. To date, no comments have been received from the public.
9. No payment or gift was provided to respondents.
10. There is no need for confidentiality for this collection of information.
11. This form does not address any private matter.

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12. We estimate that 400 applications for change will be filed and processed. In addition, we estimate that 471 applications⁵ for change will be filed by repacked Class A stations. The estimated average burden on each licensee is 9.50 hours to comply with the information collection requirements.

Total Number of Annual Respondents: 871 Station Licensees

Total Number of Annual Responses: 871 FCC 301-CA Forms

Annual Burden Hours:

We estimate nine and a half hours (9.50 hours) to complete the application process. The respondent will require seven hours to complete the legal portion of the form and the in-house station engineer will require two and a half hours to complete the engineering portion of the form.

871 major change applications x 7 hours/form for the legal portion of the form =	6,097
871 major change applications x 2.50 hours/in-house engineering review =	+ <u>2,178</u>
Total Annual Burden Hours:	8,275

Annual "In House" Cost:

The respondent is estimated to have an average salary of \$100,000/year (\$48.08/hour). A station engineer is estimated to have an average salary of \$60,000 (\$30/hour).

871 major applications x 7 hours/form for the legal portion of the form x \$48.08/hr =	\$293,143.76
871 major applications x 2.50 hours/in-house engineering review x \$30.00/hr =	<u>\$ 65,325</u>
Total Annual "In House" Cost:	\$358,468.76

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 respondent would use an outside communications attorney and a consulting engineer in the preparation and filing of the FCC Form 301-CA. The estimated cost is \$300/hour for the attorney and \$250/hour for the consulting engineer. The estimated time to prepare and file FCC Form 301-CA is 1 hour/application for the attorney and 16 hours/application for the engineer.

In addition, the fee required for submitting an application for a major change in a Class A television station is \$3,245.00. There is no fee for a minor change application.

⁵ This estimate is based on the current number of licensed Class A television stations.

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Moreover, a Class A applicant must give local public notice of the filing of its application. This notice is published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost is estimated at \$113.25/publication.

871 major change applications x 1 hour x \$300/hour legal consultation =	\$ 261,300
871 major change applications x 16 hours x \$250/hour engineering consultation =	\$3,484,000
470 major change applications x \$3,245/application fee =	\$1,525,150
470 major applications x 4 x \$113.25/publication cost =	<u>\$ 212,910</u>
Total Annual Cost Burden: \$5,483,360	

14. **Cost to the Federal Government:** The Commission will use legal and engineering staff at the GS-11, step 5 level (\$33.92/hour), clerical staff at the GS-5, step 5 level (\$18.50/hour) and paraprofessional staff at the GS-9 , step 5 level (\$28.04/hour) to process these applications. In addition, US Bank charges the FCC \$1.90 per application for its processing services.

Attorney	3 hrs. x \$33.92/hour x 871 applications	= \$ 88,632.96
Engineer	11 hrs. x \$33.92/hour x 871 applications	= \$324,987.52
Clerical	5 hrs. x \$18.50/hour x 871 applications	= \$ 80,567.50
Paraprofessional	4 hrs. x \$28.04/hour x 871 applications	= <u>\$ 97,691.36</u>
Total Cost to Federal Government:		\$591,879.34

15. If the proposed requirements contained in FCC 12-118 are adopted in a final rulemaking by the Commission 471 respondents, 471 responses, 4,975 burden hours and \$2,284,160 in annual cost will be added to OMB’s inventory.

16. The data will not be published.

17. An extension of the waiver not to publish the expiration date on the form is requested. 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 Section 0.408.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.