

SUPPORTING STATEMENT

A. Justification:

1. The Commission is submitting this revision to the Office of Management and Budget for approval to remove the information collection requirements, annual burden hours and annual cost contained in this collection for 47 CFR 73.3535(b). The Commission removed this rule section when it adopted the Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications, MB Docket No. 17-264, FCC 20-65 on May 12, 2020.

The following information collection requirements remain in this collection:

47 CFR Section 73.3525 states (a) except as provided in §73.3523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to §73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

- (1) The reasons why it is considered that such agreement is in the public interest;
- (2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;
- (3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; *Provided* That this provision shall not apply to *bona fide* merger agreements;
- (4) The exact nature and amount of any consideration paid or promised;
- (5) An itemized accounting of the expenses for which it seeks reimbursement; and
- (6) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

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

The Commission is requesting an extension of this information collection in order to receive approval/clearance from OMB for three years.

Statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended.

2. FCC staff will use the requested data to ensure that the agreement complies with its rules and regulations and Section 311 of the Communications Act of 1934, as amended. The newspaper publication gives interested parties an opportunity to apply for the facilities specified in the withdrawn application(s).

Title: Section 73.3525, Agreements for Removing Application Conflicts

Section 311(c) of the Communications Act of 1934, as amended, provides that it shall be unlawful for any applicants for broadcast facilities to affect by agreement the removal of any mutually exclusive applications without approval of the Commission and that the Commission shall approve such agreement only if it finds it to be consistent with the public interest, convenience and necessity.

3. The request for approval should contain a copy of the agreement and the required affidavits. The use of information technology is not feasible in these situations.

4. This agency does not impose a similar information collection on the applicants. 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 information collection will not have a significant economic impact on a substantial number of small businesses/entities.

6. The frequency for the request for approval is determined by respondents, as necessary. If this collection were not conducted, the Commission would be unable to enforce its rules designed to eliminate abuse of our comparative processes.

7. The requirements in this collection of information are consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. The Commission published a Notice (85 FR 34440) in the *Federal Register* on June 4, 2020 seeking comments from the public on the information collection requirements contained in this collection. No comments were received from the public.

9. No payment or gift was provided to respondent.

10. There is no need for confidentiality with this collection of information.

11. This information collection does not address any private matters of a sensitive nature.

Title: Section 73.3525, Agreements for Removing Application Conflicts

12. We estimate 38 respondents will request approval to withdraw, dismiss or amend their applications. We expect only one (1) applicant to withdraw from the application process which will require additional documentation.

	Number of <u>Responses</u>	<u>Respondent Burden Hours</u>	<u>Total Burden Hours</u>
Requests for Approval	38	1 hour	38 hours
TOTALS:	38 responses		38 hours

Total Number of Annual Respondents: 38 Broadcast Stations

Total Number of Annual Responses: 38 responses

Total Annual Burden Hours: 38 hours

Annual “In-house cost”: The respondents will require consultation time with contract attorneys to complete approval requests, local newspaper publication and FCC notice. We estimate the respondent’s salary at \$100,000/year (\$48.08/hour).

$$38 \text{ approval requests} \times 1.0 \text{ hour} \times \$48.08/\text{hour} = \$1,827.04$$

$$\textbf{Total annual in-house cost} = \textbf{\$1,827.04}$$

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

13. **Annual Cost Burden:** The respondents will incur costs for contract attorneys and newspaper publication. We estimate contract attorney salary at \$300/hour.

$$38 \text{ approval requests} \times 8.0 \text{ hours} \times \$300/\text{hour} = \$91,200$$

$$\textbf{Total annual cost burden} = \textbf{\$91,200}$$

14. **Cost to the Federal Government:** The Commission will use professionals at the GS-14, step 5 level (\$65.88/hour) to process requests for approval.

$$38 \text{ requests} \times 3 \text{ hours} \times \$65.88/\text{hour} = \$7,510.32$$

$$\textbf{Total Cost to the Federal Government: \$7,510.32}$$

15. There are program changes/decreases of 2 to the annual number of responses, 1 to the annual burden hours and \$953 to the annual cost which are due to 47 CFR 73.3525(b) being removed from this collection because of the adoption of FCC 20-65.

16. The data will not be published.

17. OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

18. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.