

Title: Regulations Applicable to Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended

SUPPORTING STATEMENT

A. Justification

1. The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a three-year extension of OMB Control No. 3060-1163 titled, “Regulations Applicable to Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended.” This Supporting Statement reflects a decrease in the total annual costs due to changes in the total number of respondents/responses from 81 to 26, based on the annual average number of responses from 2019 to 2021. In 2021, the Commission for the first time adopted application fees for Section 310(b) petition for foreign ownership rulings (Section 310 (b) petitions).¹ Based on the reduction in the number of respondents and the imposition of application fees, the overall cost to respondents decreased from \$524,400 to \$245,790 (-\$278,610).

Summary of Current Information Collection Requirements

Section 310(b) of the Act requires the Commission to review foreign investment in certain radio station licensees – broadcast, common carrier wireless, and aeronautical radio station licensee. Entities with proposed foreign ownership above the benchmarks set in the Act must petition the Commission for a ruling that such foreign ownership is in the public interest. The petitions must include detailed information about the proposed ownership so that the Commission can make this determination. These petitions may be associated with applications for new licenses, assignment of transfer of control of existing licenses or a change in the foreign ownership of an existing licensee.

On September 29, 2016, the Commission adopted final rules in *2016 Foreign Ownership Report and Order*.² There have been no changes in the collection since the *2016 Foreign Ownership Report and Order*. Among the changes in the *2016 Foreign Ownership Order*, the Commission:

- Modified its foreign ownership filing and review process for broadcast licensees by extending to such licensees the streamlined rules and procedures developed for foreign ownership reviews of common carrier and certain aeronautical licensees under Section 310(b)(4) of the Communications Act of 1934, as amended (the Act) with certain modifications to tailor them to the broadcast context; and
- Reformed the methodology used by both common carrier and broadcast licensees that are, or are controlled by, U.S. publicly traded companies to assess their compliance with the foreign ownership limits in Sections 310(b)(3) and 310(b)(4) of the Act, respectively.

The statutory authority for this information collection is contained under Sections 1, 2, 4(i), 4(j), 10, 303(r), 309, 310 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 160, 303(r), 309, 310, 403.

¹ *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission’s Rules*, MD Docket No. 20-270, Report and Order, 35 FCC Rcd 15089 (2020) (*2020 Application Fee Report and Order*).

² *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, IB Docket No. 15-236, Report and Order, 31 FCC Rcd 11272 (2016) (*2016 Foreign Ownership Report and Order*).

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This information collection does not raise any issues under the Privacy Act.

2. Use of the Information

Section 310(b)(4) of the Act requires that the Commission review the foreign ownership of U.S. parent companies that control common carrier and aeronautical radio licensees before such ownership exceeds 25 percent. The Commission's section 310(b)(3) forbearance approach (applicable to common carrier licensees only) requires that the Commission review the foreign ownership of common carrier radio licensees before such ownership exceeds 20 percent. The information collection will preserve the Commission's ability to disallow foreign investment that may pose a risk of harm to competition or national security, law enforcement, foreign policy, or trade policy.

3. Use of Information Technology

This collection will continue to require that common carrier entities file their information electronically via the internet using the International Bureau Filing System (IBFS). The International Bureau assigns an IBFS File No. to the petition, and the petition is publicly available via the internet in IBFS. Broadcast entities file their information electronically in Media Bureau's Consolidated Database System (CDBS) as an attachment to the underlying applications for a construction permit, assignment, or transfer of control. A broadcast petition filed in the absence of an underlying broadcast construction permit, assignment, or transfer of control application shall be initially submitted electronically with the Commission's Office of the Secretary via the Electronic Comment Filing System (ECFS) as a non-docketed filing. The petition will receive a docket number, and a public notice seeking comment will be released. All petitions are filed with the Commission electronically.

4. Non-Duplication

This information collection requirement is not duplicated elsewhere in the Commission's rules.

5. Burden on Small Business

The collection of information is intended to minimize the economic impact on small entities to the greatest extent possible, while ensuring that the Commission gets the complete information it needs to discharge its regulatory obligations.

6. Critical Nature of Collection

If the information collection were not conducted or were conducted less frequently than proposed, the Commission would not be able to carry out its statutory mandate under section 310(b) of the Act, and its section 310(b)(3) forbearance policy, to disallow foreign investment that the Commission finds would be contrary to the U.S. public interest. In particular, the Commission would lack the information it needs to determine whether proposed foreign investment in U.S. broadcast, common carrier, and aeronautical radio licensees may pose a risk of harm to competition or national security, law enforcement, foreign policy, or trade policy.

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7. Special Circumstances

There are no special circumstances that would prevent the Commission from following all guidelines regarding the information collection.

8. Federal Register of the Agency's Notice

On September 1, 2022, the Commission published a 60-day notice in the Federal Register (87 FR 53744) seeking comments from the public on the information collection requirements contained in this supporting statement. No comments were received from the public.

9. Gifts or Payments

The Commission will not provide any payment or gift to respondents.

10. Confidentiality

The Commission has not proposed to grant assurances of confidentiality to those parties submitting the information. Petitioners that seek to protect the confidentiality of particular information may request such treatment under section 0.459 of the Commission's rules.³

11. Sensitive Questions

This collection does not include any questions of a sensitive nature.

12. Estimate of Burden Hours for Information Collection

The Commission estimates the final burden estimates for this collection in the table below. The total number of respondents, on an annualized basis, for this information collection is approximately 26 based on the last three years of filings from 2019-2021. We estimate the same time per response for broadcast as for common carrier responses. We do not expect any difference in burden hours per response, but we do estimate a different number of responses for broadcast respondents as compared to common carrier respondents.

Estimate of Burden Hours					
Explanation of Burden Estimate	Number Of Responses		Frequency of Responses	Time Per Response	Annual Burden Hours
	Common Carrier	Broadcast			
Rule Sections 1.5000, 1.5001(a)-(k), 1.5004(a), 1.5004(e)	9	6	On occasion	46 Hours	690 Hours

³ 47 CFR § 0.459

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Rule Section 1.5004(c)-(d)⁴	4	3	On occasion	2 Hours	14 Hours
Rule Section 1.5004(f)	1	3	On occasion	2 Hours	8 Hours
Totals	26 Respondents/Responses				712 Hours

In-House Costs: We estimate that in-house staff is paid \$40 per hour. Therefore, the in-house costs total **\$28,480** as follows:

$$712 \text{ hours} \times \$40/\text{hour} = \$28,480$$

13. Estimated Annual Cost Burden to Respondents

The estimated annual cost burden to comply is as follows:

(a) Total Capital and Start-up Costs: **Zero**

(b) Total Operation and Maintenance and Purchase of Services: **\$213,600 + \$37,610 = \$251,210**

Compliance with Section 310(b)(4) rules does not require respondents to maintain any special equipment. Compliance may require respondents to hire outside attorneys and/or consultants. The estimate below assumes that respondents will also contract with outside counsel/consultants and it will also take these consultants a total of 712 burden hours to fulfill the requirements on behalf of the respondents for all 26 responses.⁵ Therefore, the total annual cost burden to the respondents is as follows:

Description	Costs per Hour	Total Annual Hours for Outside Consultants	Total Costs
Outside Legal Counsel	\$300 per Hour	712 Hours	\$213,600 (O&M)

⁴ Consisting of “notification(s) of insertion of new, foreign-organized entity in ownership chain” via letter filing. 47 CFR 1.5004(c)-(d).

⁵ See question 12 for the respondent’s burden.

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Application Filing Fee: As shown on the chart below, the total of application filing fees is \$37,610.⁶

Section 310(b) Petition for Declaratory Ruling Application Filing Fee	Number of Applicants	Application Fee	Total Costs
Petition for Declaratory Ruling	15	\$2,485	\$37,275
Waiver ⁷	1	\$335	\$335

(c) Total Annual Costs: \$524,400

Description of Estimated Costs to Respondents	Total Costs
Outside Legal/Engineering Assistance	\$213,600
Application Filing Fees	\$37,610
Total Cost to Respondents	\$251,210

14. Estimated Annual Costs to the Federal Government

In 2020, the Commission adopted a new application fee schedule that significantly updates the Commission's previous fee schedule in both types of applications and other processes covered by the fee requirement and also in the fee amounts.⁸ The cost-based fees that the Commission adopted for Section 310(b) petitions are provided in item 13 above. The fee indicated reflects the cost incurred by the Commission for review of that petition and includes industry analyst processing and review, staff attorney review, and supervisory review.⁹ The Commission's resources to process any typical Section 310(b) petition consist of the following (generally): industry analyst processing and review (GS-11/Step 5 employee), staff attorney review (GS-14/Step 5 employee), and supervisory review (GS-15/Step 5 employee).

As noted in item 13 above, the total cost for application fees for all submarine cable applications is estimated to be \$37,610. This amount, as a government cost-based fee, also reflects the estimated cost to the government for review of the estimated number of Section 310(b) petitions anticipated each year. On

⁶ *2020 Application Fee Report and Order*, 35 FCC Rcd 15089.

⁷ Filing fees for waiver requests are only applied to common carrier petitions. Broadcast waiver requests do not have a filing fee.

⁸ *2020 Application Fees Order*, 35 FCC Rcd 15089.

⁹ *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 Through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Notice of Proposed Rulemaking, 36 FCC Rcd. 1618, paras. 97, 157 (2020).

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a per-employee basis, these are the estimated costs associated with each staff member involved in review of applications/petitions associated with application fees:

Federal Government Staff	Number of Staff	Salary Per Hour	Annual Burden Hours	Annualized Costs
GS-15/Step 5 Attorney	2	\$80.63	285	\$45,959.10
GS-11/Step 5 Administrative Assistant	1	\$40.70	52	\$2,116.40
	3			\$48,075.50

The estimated annualized cost to the Federal government is the sum of the costs for staff review of all Section 310(b) petitions: **\$48,075.50**.

15. Reasons for Change in Burden

There are no program changes to this collection. There are adjustments to this information collection which are due to a re-evaluation of the figures for this collection. They are as follows: -55 to the number of respondents, -55 to the annual number of responses, -1,118 to the annual burden hours and -\$273,190.

16. Publication of Results

The FCC has not proposed to publish the information that will be collected.

17. Non-Display of OMB Expiration Date

All OMB-approved information collections (including this one) will be published in 47 CFR 0.408, which “displays” the title, OMB control number and OMB expiration date. The FCC has not proposed to issue an FCC Form specifically for the purpose of this collection.

18. Exceptions to “Certification for Paperwork Reduction Submissions”

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

This information collection does not use any statistical methods.