

Title: Form 2100, Schedule 345 – Application for Consent to Assign Construction Permit or License for TV or FM Translator Station or Low Power Television Station or to Transfer Control of Entity Holding TV or FM Translator or Low Power Television Station

SUPPORTING STATEMENT

A. Justification:

1. The Commission is requesting Office of Management and Budget (OMB) approval for an extension of an existing information collection. Further, in this Supporting Statement, we also clarify that, pursuant to a non-substantive change request received by OMB on October 27, 2020, and approved by OMB on November 2, 2020,¹ CDBS-based FCC Form 345 was renamed “Form 2100, Schedule 345 – Application for Consent to Assign Construction Permit or License for TV or FM Translator Station or Low Power Television Station or to Transfer Control of Entity Holding TV or FM Translator or Low Power Television Station,” in order to accommodate the transition to the new LMS licensing database. Accordingly, the title of this Information Collection 3060-0075 was also changed to reflect the non-substantive form change.

This collection requires the filing of the Schedule 345 when applying for authority for assignment of license or permit, or for consent to transfer of control of an entity for an FM or TV translator station, or low power TV (LPTV) station.

Moreover, this collection also includes the third-party disclosure requirement of 47 CFR § 73.3580 (OMB approval was received for Section 73.3580 under OMB Control Number 3060-0031). Section 73.3580, as amended in the Commission’s *2020 Public Notice Second Report and Order*,² discussed below, requires local public notice of the filing of all applications to assign or transfer control of a broadcast station authorization, including those of an FM or TV translator or booster station or LPTV station. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission’s LMS licensing database. Applicants for assignment or transfer of control of a LPTV station that locally originates programming must also make a total of six on-air announcements giving notice that their applications have been accepted for filing.³

History:

On May 12, 2020, the Commission adopted *Amendment of Section 73.3580 of the Commission’s Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580*, Second Report and Order, MB Docket Nos. 17-254, 17-105, & 05-6, FCC 20-65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Applicants, including applicants for assignment or transfer of control of authorizations for FM or TV translators or LPTV stations, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for

¹ OMB NOA Nov. 2, 2020, ICR Reference No: 202010-3060-014.

² *Amendment of Section 73.3580 of the Commission’s Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580*, Second Report and Order, MB Docket Nos. 17-254, 17-105, & 05-6, FCC 20-65 (rel. May 13, 2020). (*2020 Public Notice Second Report and Order*).

³ See OMB Control Number 3060-0214 for the burdens associated with the recordkeeping requirements for the online and broadcast notices pursuant to 47 CFR § § 73.3526 and 73.3527.

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30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, including an applicant for assignment or transfer of control of an LPTV station that locally originates programming, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

This submission was made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the *2020 Public Notice Second Report and Order*. The changes pertaining to this Information Collection and to 47 CFR § 73.3580 adopted in the *2020 Public Notice Second Report and Order*, which are listed below, did not necessitate changes to the Form 345, nor did they affect the substance, burden hours, or costs of completing the forms. The rule changes, however, reduced burdens and costs associated with filing the application, as set forth below.

On June 29, 2009, the Commission adopted a Report and Order, *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, MB Docket No. 07-172, FCC 09-59. In the 2009 Report and Order, the Commission adopted changes to the FM translator rules that allowed AM stations to use authorized FM translator stations⁴ to rebroadcast the AM signal locally, retransmitting their AM programming as a "fill-in" service. The adopted cross-service translating rules limited FM translators to providing "fill-in" service only, specifically within the AM primary station's authorized service area.⁵

AM radio stations use Form 345 to apply for authority to assign or transfer such fill-in FM translator stations. Consistent with actions taken by the Commission in the 2009 Report and Order, the following changes were made to Form 345: Section III of Form 345 included a new certification concerning compliance with the AM station "fill-in" service requirements. Specifically, in the AM service, applicants certify that the coverage contour (1 mV/m) of the FM translator station is contained within the *lesser* of: (a) the 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25-mile radius centered at the AM station's transmitter site.

On October 21, 2015, the Commission adopted a First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry, in *Revitalization of the AM Radio Service*, MB Docket No. 13-249, FCC 15-142 (*AM Revitalization FNPRM*). On, February 23, 2017, consistent with actions proposed by the Commission in the *AM Revitalization FNPRM*, the Commission adopted a Second Report and Order, in *Revitalization of the AM Radio Service*, MB Dkt. No. 13-249, FCC 17-14 (*AM Revitalization Second R&O*). In the *AM Revitalization Second R&O*, the Commission adopted as proposed the following rule (and Form) changes to this information collection (the Commission received OMB preapproval on March 17, 2016):⁶ modify Section 74.1201(g) of the rules to provide that the coverage contour (1 mV/m) of an FM translator station rebroadcasting an AM radio station as its primary station must be contained within the *greater* of either the 2 mV/m daytime contour of the AM station, or a

⁴ FM translator stations are low power facilities licensed for the limited purpose of retransmitting the signals of either a full power radio station or another translator station. 47 CFR § 74.1201.

⁵ As defined in 47 CFR § 74.1201(d), the "primary station" is the AM or FM radio broadcast station radiating the signal to be retransmitted by the FM translator station.

⁶ OMB NOA March 17, 2016, ICR Reference Number 201511-3060-112.

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25-mile radius centered at the AM station’s transmitter site.⁷

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) and 310 of the Communications Act of 1934, as amended.

2. **Agency Use of Information:** FCC staff uses the data to determine if the applicant meets basic statutory requirements to operate the station.

3. **Consideration Given to Information Technology:** These forms are required to be filed electronically. Paper versions are accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Waivers are not routinely granted, and filers should plead with particularity the facts and circumstances warranting grant of a waiver.

4. **Effort to Identify Duplication and Similar Information:** No other agency imposes a similar information collection on the respondents.

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. Therefore, the information collection does not have a significant economic impact on a substantial number of small entities/businesses.

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. **Consultations with Persons outside the FCC:** The Commission published a notice in the *Federal Register* seeking public comment on the information collections contained in this supporting statement, see 88 FR 23676 published on April 18, 2023. The Commission did not receive any comments from the public.

9. **Payment or Gift:** No payment of gift was provided to the respondents.

10. **Confidentiality of Information:** There is no need for confidentiality with this collection of information.

11. **Justification for Sensitive Questions:** This collection of information does not address any

⁷ The Commission did not adopt, as proposed in the *AM Revitalization FNPRM*, the 40-mile limitation language “but the FM translator’s 1 mV/m contour may not extend beyond a 40-mile radius centered at the AM station’s transmitter site,” and has therefore submitted a non-substantive change request in the interest of simplifying compliance for applicants. This is a non-substantive change to the language that was pre-approved by OMB. There is no change in the number of respondents, number of responses, annual burden hours, or annual cost for this pre-approved collection.

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private matters of a sensitive nature.

12. Estimate of Burden and Burden Hour Cost: We estimate that 1,700 Schedule 345 applications will be filed and processed annually. The average burden is 1.25 hours for the respondent to review Schedule 345 once it has been completed by an outside attorney. In addition, the posting of an online notice under 47 CFR § 73.3580(b)(2) will take the respondent one-half (0.5) hour per notice. The broadcast notices under 47 CFR § 73.3580(b)(1) will take the respondent 4.5 minutes (0.075 hour) in the aggregate to announce over the air.

Total Annual Number of Respondents: 1,700 Licensees/Permittees

Total Annual Number of Responses:

1,700 Schedule 345 Applications
 1,700 Section 73.3580(c) and (g) Online Notices
500 Section 73.3580(d) Broadcast Notices
3,900 responses

Total Annual Burden Hours:

1,700 Schedule 345 Applications x 1.25 hours/application	=	2,125 hours
1,700 Online Notices ⁸ (Section 73.3580(b)(2)) x 0.5 hour/notice	=	850 hours
500 Broadcast Notices ⁹ (Section 73.3580(b)(1)) x 0.075 hr. (4.5 mins.)/notice	=	<u>38 hours</u>
		3,013 hours

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

Total Annual “In-House” Cost: We assume that 100% of the respondents would convey to their attorneys their desire to effectuate an assignment of license or transfer of control of a broadcast license and that they would review the work done by the attorney. We estimate that this will take approximately 1.25 hours per application. We estimate this respondent will have an average salary of \$100,000/year (\$48.08/hour).

1,700 Schedule 345 Applications x 1.25 hours/application x \$48.08/hr.	=	\$102,170.00
1,700 Online Notices (Section 73.3580(b)(2)) x 0.5 hr/notice x \$48.08/hr.	=	\$ 40,868.00
500 Broadcast Notices (Section 73.3580(b)(1)) x 0.075 hr./notice x 48.08/hr	=	<u>\$ 1,803.00</u>
		\$144,841.00

⁸ All respondents will meet the requirements of Section 73.3580 by providing online notice to the public of the filing of an application for assignment of license/permit.

⁹ LPTV stations that locally originate programming, rather than re-broadcasting another station’s programming, must also give on-air notice under 47 CFR § 73.3580(c)(4)(iii). We estimate that 500 of the annual respondents will be LPTV stations locally originating programming.

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13. Annual Cost Burden: We assume that the respondent would use an attorney to complete and file the Schedule 345. We estimate that this attorney will require 7.25 hours to complete this work and has an average salary of \$300/hour. A licensee must also submit a fee for each application by a commercial broadcast station for assignment or transfer at \$150/request. Of the 1,700 applications, we expect 1,360 applications (or 80% of the applications) to be filed by commercial stations. The remaining 340 applications (or 20% of the applications) do not submit a fee with their applications.

Applicants must give local public notice of the filing of its application for an assignment of license/permit. This notice will generally be posted on an applicant-owned or affiliated website, or on a free-to-post locally targeted, publicly accessible website. We estimate that 85 percent of applicants will be able to post online notice on an applicant-affiliated website or other free-to-post local website. The remaining 15 percent will have to pay to post on a local website, which in most cases will be the website of a local newspaper that will charge the applicant for a printed notice, with the online posting included in the price. For an applicant forced to pay to post online notice, the notice must be posted on a locally targeted, publicly accessible website for at least a 24-hour period once a week for four consecutive weeks, beginning when the application is accepted for filing. The cost of this posting is estimated to be the same per posting as the cost of publishing for one day in a local newspaper, or \$113.25/publication.

1,700 Schedules 345 x 7.25 hrs. attorney processing x \$300/hr	=	\$3,697,500
1,360 feeable applications x \$160/application	=	\$ 217,600
\$113.25/publication x 255 ¹⁰ applications (Section 73.3580(b)(2))	=	<u>\$ 28,879</u>
Total Annual Cost Burden	=	\$3,943,979

14. Cost to the Federal Government. The Commission will use staff at the GS-5, step 5 level (\$23.28/hour) and GS-13, step 5 level (\$60.83/hour) to process these applications.

\$23.28 x 1 hour/processing x 1,700 applications	=	\$ 39,576.00
\$60.83 x 2 hours/processing x 1,700 applications	=	<u>\$206,822.00</u>
Total Cost to the Federal Government	=	\$246,398.00

15. Reason for Changes in Burden or Cost: There are no adjustments or program changes since the previous submission to OMB.

16. Plans for Publication: The applications are electronically filed and available to the public.

17. Display of OMB Approval Date: An extension of the waiver not to publish the expiration date on the form is requested. This will prevent the Commission from needing to update electronic files upon the expiration of the clearance. 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

No statistical methods are employed.

¹⁰ 1,700 applications x 0.15 = 255.

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