

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License, FCC Form 316

SUPPORTING STATEMENT

A. Justification:

1. **Circumstances Necessitating Change to Information Collection** – This submission is being made as a revision to an existing information collection pursuant to 44 U.S.C. § 3507. This submission contains revised FCC Form 316 and its accompanying instructions and worksheets.

Filing of the FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of a corporation holding a broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder; and, in the case of LPFM stations, where there is a voluntary transfer of a controlling interest in the licensee or permittee entity. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

Revised Information Collection Requirements:

On March 17, 2005, the Commission released a *Second Order on Reconsideration and Further Notice of Proposed Rulemaking*, Creation of a Low Power Radio Service, MB Docket No. 99-25 (FCC 05-75). The *Further Notice of Proposed Rulemaking* (“FNPRM”) proposed to permit the assignment¹ or transfer of control² of Low Power FM (LPFM) authorizations³ where there is a change in the governing board⁴ of the permittee or licensee or in other situations corresponding to the circumstances described above. This proposed rule was subsequently adopted in a *Third Report and Order and Second Further Notice of Proposed Rulemaking*, MB Docket No. 99-25 (FCC 07-204) (*Third Report and Order*), released on December 11, 2007.

FCC Form 316 has been revised to encompass the assignment and transfer of control of LPFM authorizations, as proposed in the *FNPRM* and subsequently adopted in the *Third Report and Order*, and to reflect the ownership and eligibility restrictions⁵ applicable to LPFM permittees and licensees. **(This revision to FCC Form 316 needs OMB approval).**

¹ Assignment occurs when the LPFM authorization passes to a new entity.

² Transfer occurs in control situations when the identity of the licensee does not change. Rather, control of the licensee passes to different principals, typically by a transfer of ownership interest.

³ LPFM authorizations are construction permits and licenses for LPFM stations.

⁴ The current rules prohibit LPFM authorizations from being transferred or assigned, meaning that the permits/licenses cannot be sold and the governing board or other controlling entity of an LPFM permittee or licensee cannot change its membership to an extent that would constitute a transfer of control. The rules adopted in the *Third Report and Order* allow the assignment or transfer of control of Low Power FM (LPFM) authorizations where there is a change in the governing board of the permittee or licensee.

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As noted on the OMB Form 83-I, 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(d) of the Communications Act of 1934, as amended.

2. Agency Use of Information: The data is used by FCC staff to determine if the applicant is qualified to become a Commission licensee or permittee of a commercial or noncommercial broadcast station and to carry out the statutory provisions of Section 310(d) of the Communications Act of 1934, as amended.

3. Consideration Given to Information Technology: The Commission requires applicants to file FCC Form 316 electronically.⁶

4. Effort to Identify Duplication and Use Similar Information: This agency does not impose a similar information collection on the respondents. There is 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. This collection minimizes the burden on all applicants by not requiring them to complete the more burdensome FCC 314/FCC 315 (3060-0031).

6. Less Frequent Data Collection: The frequency for this collection of information is determined by respondents, as necessary. If this collection were not conducted, the Commission could not carry out its statutory responsibilities under Section 310(d) of the Communications Act of 1934, as amended.

7. Information Collection Circumstances: This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).

⁵ The Commission will prohibit common ownership of LPFM and any other broadcast station, including translators and low power television stations, as well as other media subject to the ownership rules. The Commission's interest is "in providing for new voices to speak to the community, and providing a medium for new speakers to gain experience in the field, would be best served by barring cross-ownership between LPFM licensees and existing broadcast owners and other media entities." This restriction is "national and absolute in nature" – for example, a newspaper cannot have an attributable interest in any LPFM station, regardless of whether the newspaper and LPFM station are co-located.

⁶ On October 20, 2000, the Commission released Public Notice DA 00-2390 announcing the mandatory electronic filing of FCC Form 316. Mandatory electronic filing for this form began on November 20, 2000. Paper-filed copies of FCC Form 316 will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Filers must plead with particularity the facts and circumstances warranting grant of a waiver. Waivers will not be routinely granted.

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8. Consultations with Persons Outside the FCC: Opportunity for public comment on this information collection requirement has been published in the Federal Register at 73 FR 15157, March 21, 2008.

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

10. Confidentiality of Information: There is no need for confidentiality.

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: We estimate that 750 applications will be filed and processed annually. The average burden for the respondent when reviewing FCC Form 316 once it is completed by the respondent's attorney is 1 hour per form review. We assume all but 35 respondents will have an attorney to complete and file FCC Form 316 for them (715 respondents/applicants). Therefore, the burden for the 35 respondents/applicants completing FCC Form 316 by themselves will be 4 hours per form. This estimate is based on FCC staff's knowledge and familiarity with the availability of the data required.

Total Number of Respondents: 715 AM/FM/TV applicants
+ 35 LPFM applicants
750 Applicants/Respondents

Total Number of Responses: 750 applicants x 1 FCC Form 316 filing/applicant/annum = **750 responses**

Annual Burden Hours:

715 applicants x 1 hour application review/applicant/annum =	715 hours
35 applications x 4 hours to complete FCC Form 316/applicant/annum =	<u>140 hours</u>
Total Annual Burden Hours:	855 hours

Annual "In-House" Cost: We assume that 715 respondents will have their attorneys complete FCC Form 316 and that the respondents will review the work done by the attorney. We estimate this will take approximately 1 hour for the applicant to review each application.

We estimate that 35 LPFM applicants will prepare the application themselves and this will take approximately 4 hours to complete each application. We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/ hour).

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Annual "In-House" Cost:

715 applicants x 1 hour FCC Form 316 review/applicant x \$48.08/hr = \$34,377.20
 35 applicants x 4 hours to prepare and file FCC Form 316 x \$48.08/hr = \$ 6,731.20
Total Annual "In-House" Cost: \$41,108.40

13. Annual Cost Burden: We assume that 715 respondents will use an attorney to prepare and file the FCC Form 316. We estimate that the average cost for an attorney is \$200/hour and the attorney will require 2.5 hours to complete the work. In addition, a licensee must also submit a fee for each application by a commercial broadcast station for assignment or transfer at \$110/station. We estimate that 86% of non-LPFM applications will be for commercial stations (715 x 86% = 615).

715 applications x \$200/hour x 2.5 hours/application = \$357,500
 615 applications x \$110.00 = \$ 67,650
Total Annual Cost Burden = \$425,150

14. Cost to the Federal Government: The Commission will use professional staff at the GS-14, step5 grade level (\$53.24/hour), paraprofessional staff at the GS-11 step 5 grade level (\$31.61/hour) and clerical staff at the GS-5 grade level (\$17.24/hour) to process these applications. The processing time the GS-14 staff member will spend on each application will be 0.25 hours, the processing time the GS-11 staff member will spend on each application will be 2 hours/application, and the processing time the GS-5 will spend of each application will be 0.25 hours/application.

750 applications x \$53.24/hour /hour x 0.25 hours = \$ 9,982.50
 750 applications x \$31.61/hour x 2.0 hours = \$47,415.00
 750 applications x \$17.24/hour x 0.25 hours = \$ 3,232.50
Total Cost to the Federal Government: \$60,630.00

15. Reason for Changes in Burden or Cost: On December 11, 2007, the Commission released a Third Report and Order and Second Further Notice of Proposed Rulemaking MM Docket No. 99-25, FCC 07-204, in this proceeding. This rule will revise FCC Form 316 to encompass the assignment and transfer of control of LPFM authorizations and to reflect the ownership and eligibility restrictions applicable to LPFM permittees and licensees. The annual burden hours have increased +80 and the annual costs have increased +\$1,150.

16. Plans for Publication: The data will not be published.

17. Display of OMB Approval Date: OMB approval of the expiration date of the information collection will be displayed at 47 C.F.R. Section 0.408.

18. Exceptions to the Certification Statement: There are no exceptions to Item 19 of the Certification Statement in the OMB Form 83-I.

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B. Collections of Information Employing Statistical Methods

No statistical methods are employed.