

SUPPORTING STATEMENT

A. Justification:

1. On December 15, 1995, the Commission adopted a First Report and Order (1st R&O), Eighth Report and Order (8th R&O), and Second Further Notice of Proposed Rule Making (2nd FNPRM). By this action, the Commission adopted and proposed rules requiring licensees to submit certain information necessary to determine whether they are in compliance with certain regulatory requirements and eligible for special provisions available to small businesses. Specifically, the 1st R&O, 8th R&O, and 2nd FNPRM provided that:

1) applicants in the specific categories of 800 SMR spectrum may request an extended period of time within which to construct their radio systems provided that they demonstrate such additional time is needed and provide a timetable for completing such construction;

2) licensees authorized to use a specified block of 800 MHz SMR frequencies within one of 175 Economic Areas (EAs), must notify the Commission of the technical parameters for any base stations operating on channels within their respective spectrum blocks that have been added, removed, relocated, or otherwise modified in accordance with the Commission's rules;

3) licensees operating on 800 MHz SMR frequencies who do not hold EA licenses must notify the Commission of the technical parameters for any base stations which they operate that have been added, removed, relocated, or otherwise modified in accordance with the Commission's rules;

4) incumbent licensees operating at multiple sites may exchange their multiple site licenses for a single license after the completion of the auction for the spectrum blocks within which their frequencies are included provided they submit a showing that their authorized facilities have been constructed and placed in operation and the contours associated with these facilities are contiguous and overlapping;

5) EA licensees must submit proof of their notification to incumbents operating on frequencies included within the EA licensees' spectrum blocks of their intention to relocate such incumbents;

6) auction winners claiming status as a small business must submit detailed ownership and gross revenue information necessary to determine they qualify as a small business pursuant to the Commission's rules;

7) auction winners must disclose the terms of any joint bidding agreements, if any, with other auction participants; and

8) EA licensees who transfer or assign their license within 3 years are required to file, together with a transfer application, a statement indicating that the license was obtained through competitive bidding, as well as the associated contracts for sale, option agreements, management agreements and all other documents disclosing the total consideration received in return for the transfer or assignment of the license.

Background information:

On September 17, 1998, the Commission adopted a Report and Order (13 FCC Rcd 21027). By this action, the Commission consolidated, revised, and streamlined its rules governing license application procedures for radio services licensed by the Wireless Telecommunication Bureau, and implemented the Universal Licensing System (ULS), a new automated licensing system and integrated database for wireless services. The Commission also clarified its definition of major and minor licensing actions and certain notification requirements for minor system changes. The Commission eliminated the requirement that 800 MHz SMR EA licensees automatically notify the Commission of any technical parameter changes for sites located within the EA that are added, removed, relocated or otherwise modified. EA licensees are required to provide such information upon request of the Commission or an incumbent licensee, or where required to comply with FAA rules, NEPA or international agreements.

On December 4, 1998, the Wireless Telecommunications Bureau issued a Public Notice (13 FCC Rcd 23381) announcing the commencement of the voluntary negotiation period for the relocation of incumbent licensees in the upper 200 channels of the 800 MHz band. The notice commenced the one-year voluntary negotiation period between EA licensees and 800 MHz SMR incumbents in the upper 200 channels. EA licensees were required to notify incumbents within 90 days of the release date of the December 4, 1998 Public Notice (*i.e.* March 4, 1999) of the EA licensee's intent to relocate an incumbent. EA licensees were also required to file a copy of the relocation notice within 10 days of such receipt. On or before the March 4, 1999 deadline, EA licensees notified applicable 800 MHz SMR incumbents of their intent to relocate incumbents from upper 200 channels.

On June 10, 1999, the Commission adopted a Memorandum Opinion and Order on Reconsideration in the ULS proceeding (14 FCC Rcd 11145). By this action, the Commission completed implementation of a new licensing framework for all services licensed by the Wireless Telecommunications Bureau. Further, the Commission specified the types of minor modifications that require Commission notification. Licensees in the 800 MHz band that are authorized on a site-by-site basis are no longer required, in all cases, to notify the Commission within 30 days of the technical parameters for base stations which they operate that have been added, removed, relocated or otherwise modified in accordance with Commission's rules for minor modifications. In general, site-by-site authorized licensees are now permitted to make internal site changes without notice or prior approval provided they do not expand their existing service area or interference contour of the system as a whole. However, 30 day notification of minor system changes is required where mandated by a specific rule section.

On September 30, 1999, the Commission adopted a Memorandum Opinion and Order on Reconsideration. By this action, the Commission completed the implementation of a new licensing framework for the 800 MHz SMR services. Specifically, the Commission revised and clarified its rules concerning: (a) the channel plan for

General Category channels, (b) the modification of incumbent licensee systems, and (c) the mandatory relocation of incumbent licensee systems from the upper 200 channels to the lower 230 channels. Additionally, the Commission retained its current construction and coverage requirements and clarified its rules concerning co-channel interference protection, the definition of incumbent, and the applicability of partitioning and disaggregation rules to Private Mobile Radio (PMRS) licensees in the 800 and 900 MHz SMR services. The Commission also reaffirmed its conclusion that competitive bidding is an appropriate tool to resolve mutually exclusive license applications for the General Category and lower 80 channels of the 800 MHz SMR service.

On December 17, 1999, the Commission adopted a Memorandum Opinion and Order on Remand. This action was taken pursuant to an order issued by the United States Court of Appeals for the District of Columbia in *Fresno Mobile Radio, Inc., et al. v. Federal Communications Commission* (“*Fresno*”), 165 F. 3d 965 (D.C. Cir. 1999), wherein the Court remanded for further consideration the Commission’s prior decision maintaining the requirement that incumbent wide-area SMR licensees, which had received “extended implementation” authorizations, must construct and operate all sites and frequencies by the construction deadline. Upon further reconsideration, the Commission allowed incumbent wide-area 800 MHz SMR licensees who were within their construction periods at the time *Fresno* was decided, to satisfy construction requirements similar to those given to EA licensees in the 800 MHz band, and required that they may choose to apply the existing site-by-site, frequency-by-frequency construction requirements, or the EA construction requirements. Those who choose the latter were required to certify in a filing with the Commission their compliance with the requirements within the later of 15 days from their applicable construction benchmarks or 60 days from the effective date of the MO&O on Remand. All of the extended implementation licensees completed their certifications required by the Commission in years 2000 and 2001.

The Commission has revised this collection because on July 22, 2005, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking, FCC 05-144 (70 FR 61049) to streamline and harmonize licensing provisions in the wireless radio services pursuant to biennial regulatory review responsibilities. The Commission modified section 90.693, 47 C.F.R. § 90.693 of its rules, to eliminate the necessity of incumbent 800 MHz SMR licensees filing notifications of minor modifications in certain circumstances. Specifically, notification of minor modification is no longer required where a license locates its facilities closer than the minimum required distance separation but nonetheless falls within the parameters of the Short Spacing Separation Table under Commission rule section 47 C.F.R. § 90.621.

Statutory authority for this collection of information is contained in 47 U.S.C. §§ 154(i), 309(j), and 332 as amended.

As noted on the Form OMB 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information will be used by the Commission for the following purposes: (a) to update the Commission's licensing database and thereby facilitate the successful coexistence of EA licensees and incumbents in the 800 MHz SMR band; and (b) to determine whether an applicant is eligible for special provisions for small businesses provided for applicants in the 800 MHz service.
3. Requests for a consolidated authorization and required notification of changes in technical parameters of base stations must be filed electronically via the FCC Form 601. Ownership information for small businesses and the terms of joint bidding agreements must be attached as exhibits to FCC Form 601, which has already received OMB clearance.
4. This agency does not impose similar 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, regardless of size. The Commission has limited the information requirements to that absolutely necessary for evaluating and processing the application and to deter against possible abuse of the processes.
6. Respondents will determine whether they want to turn in their multiple site authorizations for a consolidated authorization, change the technical parameters of the base stations associated with their authorizations, or participate in competitive bidding. Transfer disclosure requirements will be imposed for three years following grant of the license and will be required when the respondent chooses to transfer or assign the license.
7. Respondents would only have to make a one-time filing of the requested information with respect to requests for a consolidated authorization, transfer or assignment of authorization, and eligibility for special provisions for small businesses. Where required, notification of changes in technical parameters for base stations must be filed each time a change is made. This information collection is consistent with the guidelines in 5 C.F.R. § 1320.6.
8. The Commission published a 60 day notice requesting comments on this information collection on September 7, 2006 (71 FR 52793). We received no comments pertaining to this notice. A copy of the notice it included in the OMB submission.
9. Respondents will not receive any payments or gifts.
10. There is no need for confidentiality.

11. This collection does not address any private matters of a sensitive nature.
12. The Commission revised its rule requiring 800 MHz SMR EA licensees to submit notification of parameter changes for base stations in all cases to only those cases involving limited circumstances or by specific request of the Commission or an incumbent. Therefore, we estimate, based upon applications receipts within the last 3 years, that no more than 12 modification applications per annum will be submitted regarding notification of changes in technical parameters of the base station(s) associated with their respective operations. The average burden on the applicant is 2 hours for the information necessary to demonstrate what changes have been made. The Commission also further revised its notification rule to require non-EA license incumbents to notify the Commission of base station technical parameters changes in more limited circumstances. Therefore, we estimate that approximately 1000 applications per year will be filed by non-EA licensees notifying the Commission of changes in the technical parameters of the base station(s) associated with their respective operations. The average burden on the applicant is 2 hours for the information necessary to demonstrate what changes have been made.

In the previous submission of this information collection, we estimated that approximately 50 non-EA licensees would submit a request to exchange their multiple-site licenses for a single authorization. Non-EA licensees have been able to exchange multiple-site licenses for a single authorization since the close of the upper 200 channel auction in December, 1997. Further, the 800 MHz lower 80 channel auction closed in December, 2000 and the 800 MHz General Category auction closed in September, 2000. Interested licensees have been afforded between 3-6 years to exchange authorizations. We therefore estimate that approximately 10 non-EA licensees per annum will submit a request to exchange their multiple site licenses for a single site license for a consolidated authorization. The average burden on the applicant is 3 hours for the information necessary to demonstrate the technical parameters associated with their operations.

In a previous collection, we estimated that no more than 525 winning bidders would be required to submit ownership or gross revenue information via the FCC Form 601, and that no more than 525 winning bidders would be required to submit the terms of all joint bidding agreements and to make filings of information regarding transfers of licenses within three years of license grant. As the Commission has completed 800 MHz auctions for the upper 200, lower 80 and General Category channels, and that the last 800 MHz related auction took place in 2002 (Auction # 43) with a single small business winning 5 licenses, we estimate that no more than 10 winning bidders per annum would be required to submit, in a future 800 MHz auction, ownership or gross revenue information via the FCC Form 601. The average burden on the applicant is 4 hours for the information necessary to determine compliance with the small business ownership and gross revenue requirements and for disclosing the terms of any joint bidding agreements.

Note: The 800 MHz upper 200 channel auction was completed more than three years ago and therefore all information required to be filed pertaining to license transfers within that period has been filed with the Commission. Further, the three year period with respect to the lower 80 and general category channel auctions also expired during this collection period and therefore we do not anticipate that transfer disclosure information will be filed during this next collection period. These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required and our prior experience with the above-referenced showings.

We estimate 75% of the 12 applicants, unless indicated otherwise, will contract out the burden of responding. We estimate that it will take approximately 30 minutes to coordinate the information with those contractors. The remaining 25% are estimated to employ in-house staff to provide the information.

Notifications of Changes in Technical Parameters by EA Licensees

25% of 12 applications = 3 (in-house) x 2 hours = 6 hours

Total Annual Hour Burden = **6 hours**

Notifications of Changes in Technical Parameters by Incumbent EA Licensees

25% of 1000 applications = 250 (in-house) x 2 hour = 500 hours

Total Annual Hour Burden = **500 hours**

Request for Single Authorizations for Multiple Site Licenses

25% of 10 applications = 2.5 (in-house) x 3 hours = 7.5 hours

Total Annual Hour Burden = **7.5 hours**

Ownership, Gross Revenue, and Joint Bidding Agreement Information for Small Businesses

25% of 10 applications = 2.5 (in-house) x 4 hours = 10 hours

Total Annual Hour Burden = **10 hours**

Total Hour Burdens: 6 + 500 + 7.5 + 10 = 523.5 (rounded to 524 hours)

Total Annual Burden Hours: 524 hours

13. We assume that the respondents contracting out the information would use an outside attorney @ \$200/hr, or an engineer @ \$150/hr to prepare the information. The following are outside contracting costs to the respondent:

Notification of Changes in Technical Parameters by EA Licensees

9 applications x 2.5 hrs x \$150 (engineer) = **\$3,375**

Notification of Changes in Technical Parameters by Incumbent EA Licensees

750 applications x 2.5 hrs x \$150 (engineer) = **\$281,250**

Request for Single Authorization for Multiple Site Licenses

7.5 applications x 3.5 hrs x \$150 (engineer) = **\$3,938**

Ownership and Gross Revenue Information for Small Businesses

7.5 applications x 4.5 hrs x \$200 (attorney) = **\$6,750**

Notification of Compliance with Construction Requirements

10 applications x 4.5 hrs = 45 hrs x \$200 (attorney) = **\$9,000**

Total Cost Burden: \$3,375 + \$281,250 + \$3,938 + \$6,750 + \$9,000 = \$304,313

Total Annual Cost Burden is: \$304,313

14. Costs to the Federal Government:

Notification of Changes in Technical Parameters by EA Licensees

Engineer at \$150/hr x 12 applications x 2 hours = **\$3,600**

Notification of Changes in Technical Parameters by Incumbent EA Licensees

Engineer at \$150/hr x 1000 applications x 2 hours = **\$300,000**

Request for Single Authorization for Multiple Site Licenses

Engineer at \$150/hr x 10 applications x 1.5 hours = **\$2,250**

Ownership and Gross Revenue Information for Small Businesses

Attorney at \$200/hr x 10 applications x .5 hours = **\$1,000**

Notification of Compliance with EA Construction Requirements

Attorney at \$200/hr x 10 applications x .5 hrs = **\$1,000**

Total Federal Government Costs: \$3,600 + \$300,000 + \$2,250 + \$1,000 + \$1,000 =
\$307,850.00

15. The Commission is reporting an adjustment for the hourly and cost burdens. The adjustment to the hourly burden is based upon the data in our ULS database which estimates the number of respondents expected during the next collection period. The number of respondents has increased; therefore, the Commission has recalculated the hourly and cost burden accordingly.
16. This data will not be published for statistical use.
17. We do not seek approval to not display the expiration date for OMB approval of the information collection.
18. There are no exceptions to Item 19.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.