

## SUPPORTING STATEMENT

### **A. Justification:**

1. In the *Memorandum Opinion and Order on Reconsideration*, published at 64 FR 71042 (Dec. 20, 1999), the Commission completed the implementation of a new licensing framework for the 800 MHz Specialized Mobile Radio Service (SMR). Specifically, among other things, the Commission clarified its rules concerning system separation, the channel plan for General Category channels, the modification of incumbent licensee systems, and the mandatory relocation of incumbent licensee systems from the upper 200 channels to the lower 230 channels. The Commission also retained its current construction and coverage requirements at that time, and clarified its rules concerning Commission-channel interference protection in the 800 MHz and 900 MHz SMR services.

With regard to system separation, in general, section 90.621(b) requires a fixed mileage separation of 113 km (70 miles) between co-channel 800 and 900 MHz systems. However, section 90.621(b)(4) provides that co-channel stations may be separated by less than 113 km (70 miles) by meeting certain transmitter ERP and antenna height criteria, as listed in the Commission's "Short-Spacing Separation Table." Previously, engineering showings were submitted with applications demonstrating that a certain addition or modification would not cause interference to other licensees, even though the stations would be spaced less than 70 mi (113 km) apart. Currently, stations meeting the parameters set forth in the Short-Spacing Separation Table need not submit an engineering analysis demonstrating interference protection to co-channel licensees.

Section 90.693 of the Commission's rules requires that 800 MHz incumbent SMR licensees "notify the Commission within 30 days of any changes in technical parameters or additional stations constructed that fall within the short-spacing criteria." It has been standard practice for incumbents to notify the Commission of all changes and additional stations constructed in cases where such stations are in fact located less than the required 70 mile distance separation, and are therefore technically "short-spaced," but are in fact fully compliant with the parameters of the Commission's Short-Spacing Separation Table.

In the *Streamlining and Harmonization Report and Order and Further Notice of Proposed Rulemaking*, published at 70 FR 61049, October 20, 2005, the Commission deleted Section 90.693's notification requirement for incumbents wishing to locate stations closer than the minimum co-channel separation distance, where the station's parameters comply with the Short-Spacing Separation Table under Section 90.621. It noted that under the Administrative Procedures Act (APA), the Commission may modify procedural rules such as the notification requirement without notice and comment. See 5 U.S.C. § 553(b). The Commission determined that because incumbents are not allowed under the rules to expand their interference contours, deleting the notification requirement would not lead to interference among licensees.

Although the Streamlining and Harmonization rulemaking eliminated a substantial number of filings to reduce burdens on licensees, the Commission clarified that

notification of minor modifications within 30 days will still be required under Section 90.693 in two areas involving short-spaced systems.

First, section 90.621(b)(4) allows stations to be licensed at distances less than those prescribed in the Short-Spacing Separation Table where applicants “secure a waiver.” Applicants seeking a waiver in these circumstances are still required to submit with their application an interference analysis, based upon any of the generally-accepted terrain-based propagation models, demonstrating that co-channel stations would receive the same or greater interference protection than provided in the Short-Spacing Separation Table.

Second, section 90.621(b)(5) permits stations to be located closer than the required separation, so long as the applicant provides letters of concurrence indicating that the applicant and each co-channel licensee within the specified separation agree to accept any interference resulting from the reduced separation between systems. Applicants are still required to file such concurrence letters with the Commission. Additionally, the Commission did not eliminate filings required by provisions such as international agreements, its environmental (National Environmental Protection Act (NEPA)) rules, its antenna structure registration rules, or quiet zone notification/filing procedures.

SHORT-SPACING SEPARATION TABLE

Proposed station ERP(watts)/DHAAT(m) <sup>3</sup>	Distance between stations (km) <sup>1, 2</sup>						
	Existing station DHAAT (meters) <sup>3</sup>						
	305	215	150	108	75	54	37
1000/305 .....	113	113	113	113	113	113	113
1000/215 .....	113	113	113	113	113	113	110
1000/150 .....	113	113	113	113	112	108	103
1000/108 .....	113	113	113	110	107	103	98
1000/75 .....	113	112	108	103	100	96	91
1000/54 .....	113	109	105	100	97	93	88
1000/37 .....	109	104	100	95	92	88	88
500/305 .....	113	113	113	113	113	113	110
500/215 .....	113	113	113	112	109	105	100
500/150 .....	113	112	108	103	100	96	91
500/108 .....	112	107	103	98	95	91	88
500/75 .....	107	102	98	93	90	88	88
500/54 .....	103	98	94	89	88	88	88

<sup>1</sup> Separations for stations on Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson (CA) and the locations in the State of Washington listed in paragraph(b)(3) of this section are 56 km (35 mi) greater than those listed in the Table above. In the event of conflict between this Table and the table of additional California high elevation sites shown in paragraph (b)(2) of this section, the latter will apply.

<sup>2</sup> Distances shown are derived from the R-6602 curves and are based upon a non-overlap of the 22 dBu (F50,10) interference contour of the proposed station with the 40 dBu (F50,50) contour of the existing station(s). No consideration is given to the 40 dBu service contour of the proposed station and the 22 dBu contour of the existing station(s). The minimum separation of stations will be 88 km (55 mi).

<sup>3</sup> All existing stations are assumed to operate with 1000 watts ERP. When the ERP and/or DHAAT of a proposed station or the DHAAT of an existing station is not indicated in the Table, the next higher value(s) must be used.

500/37 .....	99	94	90	88	88	88	88
250/305 .....	113	113	113	112	109	105	100
250/215 .....	113	113	107	102	99	95	90
250/150 .....	109	104	100	95	92	88	88
250/108 .....	105	100	96	91	88	88	88
250/75 .....	99	94	90	88	88	88	88
250/54 .....	95	90	88	88	88	88	88
250/37 .....	91	88	88	88	88	88	88
125/305 .....	113	111	107	102	99	95	90
125/215 .....	108	103	99	94	91	88	88
125/150 .....	103	98	94	89	88	88	88
125/108 .....	98	93	89	88	88	88	88
125/75 .....	93	88	88	88	88	88	88
125/54 .....	88	88	88	88	88	88	88
125/37 .....	88	88	88	88	88	88	88
62/305 .....	108	103	99	94	91	88	88
62/215 .....	103	98	94	89	88	88	88
62/150 .....	97	92	88	88	88	88	88
62/108 .....	92	88	88	88	88	88	88
62/75 .....	88	88	88	88	88	88	88
62/54 .....	88	88	88	88	88	88	88
62/37 .....	88	88	88	88	88	88	88

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**The Commission is submitting this information collection as a extension to obtain the full three year clearance. The Commission also adjusts the burden hours to reflect a significant decrease in the number of respondents and total filings made pursuant to sections 90.621(b)(4) and 90.621(b)(5). See item 15 of this supporting statement.**

Statutory authority for this collection of information is contained in 47 U.S.C. Sections 154(i) and 309(j), 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 Commission will continue to use this information to determine whether to grant licenses to applicants making “minor modifications” to their systems which do not satisfy mileage separation requirements pursuant to the Short-Spacing Separation Table.
3. This information will continue to be filed electronically to any certified frequency coordinator for all major modifications. Prior to finalizing rule makings, the Wireless Telecommunications Bureau (WTB) conducts an analysis to insure that improved information technology may be used to reduce the burden on the public. This analysis considers the possibility of obtaining and/or computer-generating the required data from existing databases in the Commission or other federal agencies. 100% of both the applications and letters of concurrence will be filed electronically.
4. This agency does not impose a similar collection on the respondent. 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 abuses of the processes.

6. This supplemental information is required upon the applicant's request for short spacing. Accordingly, less frequent submissions are not possible.
7. Respondents would generally only have to make a one-time filing of the requested information. This collection of information is consistent with 5 C.F.R. 1320.6.
8. Notice of the information collection appeared at 74 FR 22742, (May 14, 2009), in compliance with 5 C.F.R. Section 1320.8. No comments were received as a result of the Federal Register Notice. A copy of the Notice is reference in this submission to the OMB.
9. Respondents will not receive any payments.
10. There is no need for confidentiality.
11. This collection does not address any private matters of a sensitive nature.
12. According to Commission licensing records, there are approximately 60 applicants that requested authorization of systems located less than the required co-channel separation distance over the last three years. We divide 60 by 3 to get the number of applicants per annum, which to get 20 applicants. The average burden on the applicant remains 1.5 hours for the information necessary to request authorization of the proposed system.

20 applicants x 1.5 hours = 30 hours.

**Total Annual Burden Hours: 30 hours**

13. Cost to the respondent:

a) There are no capital and start-up costs.

b) We presume that the respondents contracting out the information would use an "outside engineer or attorney" (average \$200 per hour) to prepare the information.

20 respondents x \$200 per hour x 0.5 hours = \$2,000.00

**Total Annual Respondent Costs: \$2,000.00**

14. Cost to the Federal Government. The government review time per response for this submission is estimated at 30 minutes with review being done by personnel GS-14/5 level.

20 applications x 0.5 hours = 10 hrs. x \$48/hr. = \$480.00.

**Total cost to the Federal Government: = \$480.00**

15. The Commission is reporting a significant decrease in the number of respondents and responses since the 2006 submission to the OMB. In 006, the Commission reported

1,000 respondents/responses. Now there are 20 annual respondents. Therefore, we are reporting a decrease of -1,470 burden hours, and a \$98,000 reduction in the cost burden for this information collection.

16. This data will not be published for statistical use.

15. We do not seek approval not to display the expiration date for OMB approval of the information collection.

16. There are no exceptions to Item 19.

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.