

## SUPPORTING STATEMENT

### **A. Justification:**

1. The purpose of FCC Form 854 (Form 854) is to register antenna structures that are used for radio communication services which are regulated by the Commission; to make changes to existing registered antenna structures or pending applications for registration; or to notify the Commission of the completion of construction or dismantlement of such structures, as required by Title 47 of the Code of Federal Regulations, Chapter 1, Sections 1.923, 1.1307, 1.1311, 17.1, 17.2, 17.4, 17.5, 17.6, 17.7, 17.57 and 17.58.

Any person or entity proposing to construct or alter an antenna structure that is more than 60.96 meters (200 feet) in height, or that may interfere with the approach or departure space of a nearby airport runway, must notify the Federal Aviation Administration (FAA) of proposed construction. The FAA determines whether the antenna structure constitutes a potential hazard, and may recommend appropriate painting and lighting for the structure. The Commission then uses the FAA's recommendation to impose specific painting and/or lighting requirements on radio tower owners and subject licensees. When an antenna structure owner for one reason or another does not register its structure, it then becomes the responsibility of the tenant licensees to ensure that the structure is registered with the Commission.

Section 303(q) of the Communications Act of 1934, as amended, gives the Commission authority to require painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna structure may cause a hazard to air navigation. In 1992, Congress amended Sections 303(q) and 503(b)(5) of the Communications Act: 1) to make radio tower owners, as well as Commission licensees and permittees responsible for the painting and lighting of radio tower structures, and 2) to provide that non-licensed radio tower owners may be subject to forfeiture for violations of painting or lighting requirements as specified by the Commission.

*On December 9, 2011, the Commission adopted and released, FCC 11-181, the Migratory Bird Order on Remand (Remand Order), WTB Docket Nos. 08-61 and 03-187, in response to the decision of the Court of Appeals for the District of Columbia Circuit in American Bird Conservancy v. FCC, 516 F.3d 1027 (D.C. Cir. 2008). The court held that the Commission's current Antenna Structure Registration (ASR) procedures do not offer members of the public a meaningful opportunity to request an Environmental Assessment for proposed towers that the Commission considers categorically excluded from review under the National Environmental Policy Act (NEPA). To address the court's holding, the Remand Order adds a pre-application notification process to the ASR procedures so that members of the public will have a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission. The Remand Order also adopts an interim requirement to prepare Environmental Assessments (EAs) for antenna structures that are over 450 feet in height.*

*The Commission is revising Form 854 to comply with the Remand Order by adding questions that will facilitate the pre-application notification process. In addition, Form 854 is being revised to include several administrative-related questions that will enable the Commission to more efficiently process antenna structure registrations. The additional questions relate to replacement towers;*

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*requirements to post local and national notice so that the public may have a meaningful opportunity to comment on the environmental effects of a proposed structure that requires registration; determining if the structure is located on federal land; allowing the applicant to select the type of painting and/or lighting it will utilize on the structure being registered; and collecting additional administrative information such as the type of entity that owns the structure, their Fax number, and county and Zip code in which the structure is located.*

Records may include information about individuals or households, *e.g.*, personally identifiable information or PII, and the use(s) and disclosure of this information are governed by the requirements of a system of records notice or 'SORN', FCC/WTB-1, "Wireless Services Licensing Records." There are no additional impacts under the Privacy Act.

The Commission is revising the annual burden hours from 6,750 to 21,345 due to an increase in the number of responses. The number of respondents has increased from 2,500 to 4,500 and the number of responses has increased from 4,500 to 47,500. The Commission does not estimate an increase in the average burden per response due to the requirements of the Migratory Bird Order on Remand, WTB Dockets 08-61 and 03-187. Any increased burden is offset by improvements to the online filing system. The Commission estimates that the cost burden will increase due to the need to contract biological services to perform Environmental Assessments.

Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 303(q), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 303(q), 303(r), and 309(j), Section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4332(C), and Section 1506.6 of the regulations of the Council on Environmental Quality, 40 C.F.R. § 1506.6

2. The Commission's responsibility is to ensure that antenna structures do not pose a threat to air safety and that environmental effects of proposed structures are fully considered prior to construction. The information will be used by the Commission to maintain a current antenna structure registration database. This database will allow the Federal Aviation Administration and the Commission to identify potential air safety hazards and provide members of the public the opportunity to review filings for potential environmental effects.

All information within the Antenna Structure Registration (ASR) database is publicly available except materials which are afforded confidential treatment under 47 CFR 0.459 if provided.

3. Approximately 99% of the Form 854's are filed electronically and all Form 854's are available to the public from the Commission's website. The Commission is developing a new streamlined online filing process for applications subject to the new requirements.
4. This agency does not impose a similar information 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 those absolutely necessary for evaluating and processing each

application and to deter against possible abuses of the processes.

6. If the information on the Form 854 is not collected, there could be a substantial negative effect on safe air navigation as well as potential environmental effects.

The frequency of filing is determined by the structure owners who need to notify the Commission of a new antenna structure, when modifying or dismantling an existing structure, when changing ownership of an antenna structure, or when updating administrative-related information.

7. This collection of information is consistent with the guidelines in 5 CFR § 1320.6.
8. The Commission initiated a 60-day public comment period which appeared in the *Federal Register* on January 9, 2012 (77 FR 1066). No PRA comments were received as a result of this notice.
9. Respondents will not receive any payments or gifts.
10. Generally, all information collected on Form 854 is available for public inspection. This information is maintained in the Commission's system of records notice or 'SORN', FCC/WTB-1, "Wireless Services Licensing Records." These records are publicly available and routinely used in accordance with Subsection (b) of the Privacy Act, 5 U.S.C. 552a(b), as amended. Material that is afforded confidential treatment pursuant to a request made under 47 CFR §0.459 will not be available for public inspection.

The Commission has in place the following policy and procedures for records retention and disposal: records will be actively maintained as long as the registration is valid; paper records will be archived after being keyed or scanned into the ASR database and destroyed when 12 years old; electronic records will be backed up and deleted twelve years after the registration is no longer valid.

11. This collection does not address private matters of a sensitive nature, but individuals are affected. The Commission has a PII is covered by the system of records notice or 'SORN', FCC/WTB-1, "Wireless Services Licensing Records".
12. The Commission estimates that there are 2,500 annual respondents. The frequency of response is determined by the antenna structure owner. There is no renewal period for the Registration. The number of annual responses averages 47,500. Below is a breakdown of the responses and times to complete responses based on the Commission's knowledge and familiarity with the availability of the data required.
  - Approximately 40,500 responses are requesting administrative or other minor changes that are not subject to the environmental notice process and average 20 minutes to complete.
  - Approximately 6,800 responses will be subject to the new environmental notice process but will not require an Environmental Assessment.
    - o 80% will take 1 hour to complete
    - o 20% will require a field survey. These will require a total of 5 hours of contracted biological services and 1.5 hours of respondent time to prepare and file, including the time to complete the notice process.

- Approximately 200 responses will require an Environmental Assessment which will require 2.5 hours of respondent time to prepare and file, including the time to complete the notice process. Approximately 100 of the Environmental Assessments will require 60 hours of contracted biological services.

**Burden Hours**

<b>Filings</b>	<b>Responses</b>	<b>Hours to Complete</b>	<b>Total Hours</b>
Minor Changes	40,500	.33	13,365
Environmental Notice Process	5,440	1	5440
Site Survey	1,360	1.5	2,040
Environmental Assessment	200	2.5	500
<b>TOTAL ANNUAL BURDEN HOURS</b>			<b>21,345</b>

**Average Burden: 21,345/47,500 responses = .45 hours (approximately 30 minutes)**

The Commission estimates that 95% of the filing work will be handled in-house, and 5% of the filing work will be contracted to another party. Assuming that respondents use in-house personnel comparable in pay to a mid to senior level federal employee to prepare the collection, we estimate the cost to be about \$35 per hour.

$$47,500 \text{ responses} \times .95 \times .5 \text{ hours} = 22,562 \text{ hours}$$

$$22,562 \text{ hours} \times \$35 \text{ respondent wages} = \$789,670$$

We assume respondents will use clerical staff to coordinate the contracting at approximately \$12 per hour. Contracting the work does not result in any change to burden hours as we expect this work to take approximately 30 minutes per response,

$$47,500 \text{ responses} \times .05 \times .5 \text{ hours} = 1,187 \text{ hours}$$

$$1,187 \text{ hours} \times \$12 \text{ clerical staff wages} = \$14,244$$

**TOTAL ANNUAL IN-HOUSE COST: \$789,670 + \$14,244 = \$803,914.**

- The Commission estimates that 5% of the filing work will be contracted to a third party, such as a law firm or application preparer. The Commission expects that a majority of the work will be performed by a paralegal or equivalent with some attorney review. Assuming \$125 an hour for a paralegal and \$300 an hour for attorney work, we estimate a blended rate of \$175 per hour.

$$47,500 \text{ responses} \times .05 \times .5 \text{ hours} = 1,187 \text{ hours}$$

$$1,187 \text{ hours} \times \$175 \text{ an hour} = \$207,725$$

Of the 6,800 responses subject to the new environmental notification process, 20% will require a field survey which requires 5 hours of contracted biological services,. In addition, approximately 100 responses requiring an Environmental Assessment will require 60 hours of contracted biological services. The Commission estimates that the cost of biological services is \$60 per hour.

6,800 responses x .2 x 5 hours x \$60 an hour = \$408,000

100 responses x 60 hours x \$60 an hour = \$360,000

**TOTAL ANNUAL COST BURDEN: \$207,725 + \$408,000 + \$360,000 = \$975,725.**

14. Cost to the Federal Government:

Approximately 1% of responses are filed manually. These are keyed and filed by a contractor in about 10 minutes per application, at approximately \$35 per hour.

47,500 annual responses x .01 = 475 annual responses

475 annual responses x \$35 per hour x .166 hour = \$2,760

A GS-11 Industry Analyst will review responses subject to the Environmental Notification Process. The review time will average 15 minutes per response subject to review.

7000 annual responses x .25 hours x \$34 per hour = \$59,500

A GS-14 Biologist (or contract equivalent) will, on average, spend approximately 2 hours reviewing Environmental Assessments with biological services.

100 responses x 2 hours x \$57 per hour = \$11,400

Approximately 10% of a GS-13 Program Analyst's time is devoted to the oversight and maintenance of the automated processing system, including processing applications that cannot be processed by automated means.

\$100,904 annual salary x .10 = \$10,090

Approximately 5% of a GS-8 Computer Operator's time is devoted to output production.

\$52,976 annual salary x .05 = \$2,649

Cost to the Federal Government: \$2,760 + \$59,500 + \$11,400 + \$10,090 + \$2,649 = \$86,399

Sub-Total	\$ 86,399
Overhead Costs (25%)	<u>\$ 21,600</u>
	\$107,999

**TOTAL ANNUAL COST TO THE FEDERAL GOVERNMENT: \$ 107,999.**

15. The Commission is reporting a 14,595 hourly increase adjustment in burden and an \$855,145 program change increase in annual costs. These increases are due to an increase in the number of responses and increased the costs of contracting biological services to perform Environmental Assessment required by the Migratory Bird Order on Remand.

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

17. The Commission is requesting a continued waiver from displaying the OMB expiration date on the Form 854. Granting this waiver will prevent the Commission from having to update computer versions and thus reduce waste. All OMB-approved information collections are published in 47 CFR 0.408. This section includes the OMB control number, title of the collection and the OMB expiration date.
18. There are no exceptions to the certification statement.

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

This information collection does not use any statistical methods.