

SUPPORTING STATEMENT

A. Justification:

1. The Federal Communications Commission (“Commission”) requests that the Office of Management and Budget (OMB) approve a revision of the information collection titled, “Satellite Digital Audio Radio Service (SDARS)” previously approved under OMB Control No 3060-1153 as a result of a recent Order on Reconsideration.

Rulemaking

On May 20, 2010, the Commission adopted and released a Second Report and Order titled, “In the Matter of Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band,” IB Docket No. 95-91, GEN Docket No. 90-357, RM-8610, 25 FCC Red 11710 (2010) (2010 WCS R&O and SDARS 2nd R&O). In the SDARS 2nd R&O, the Commission adopted a framework for the regulation of SDARS terrestrial repeaters. First, the Commission adopted technical rules governing the operation of SDARS repeaters that will not unduly constrain the deployment of SDARS repeaters, but that will, at the same time, limit the potential for harmful interference to adjacent spectrum users in the Wireless Communications Service (WCS). Second, the Commission adopted a blanket-licensing regime to facilitate the flexible deployment of SDARS repeaters, which are necessary to ensure a high quality service to the public, while ensuring that such repeater operations comply with the Commission’s rules regarding RF safety, antenna marking and lighting, and equipment authorization, as well as with international agreements. The Commission adopted a site-by-site licensing regime for repeater operations that did not qualify for blanket licensing. Finally, the Commission addressed other issues regarding SDARS repeater operations that are not associated with the interference concerns raised by WCS licensees. Specifically, the Commission adopted rules to ensure that SDARS repeaters remain truly complementary to a satellite-based service, and that SDARS terrestrial repeaters are not used to transmit local programming or advertising.

The 2010 WCS R&O and SDARS 2nd R&O adopted rules that are considered information collections under the Paperwork Reduction Act. These information collections included the following new or modified rule sections that apply to SDARS licensees and that were submitted for review by OMB:

1. **47 CFR 25.144(e)(3)** - SDARS licensee shall, before deploying any new, or modifying any existing, terrestrial repeater, notify potentially affected WCS licensees pursuant to the procedure set forth in 25.263.
2. **47 CFR 25.144(e)(8)** - SDARS licensees must file an earth station application using Form 312 to obtain blanket authority for terrestrial repeaters operating at 12 kW EIRP (average) or less and in compliance with FCC rules; application must include certain parameters of operation and a certification that the proposed SDARS terrestrial repeater operations will comply with all the rules adopted for such operations.
3. **47 CFR 25.144(e)(9)** - The operation of non-compliant repeaters and/or repeaters operating above 12 kW EIRP (average) must be applied for and authorized under individual site-by-site licenses using Form 312 and appropriate waiver of the Commission’s rules.

4. **47 CFR 25.263(b)** - SDARS licensees are required to provide informational notifications as specified in 25.263, including requirement that SDARS licensees must share with WCS licensees certain technical information at least 10 business days before operating a new repeater, and at least 5 business days before operating a modified repeater.
5. **47 CFR 25.263(c); Recordkeeping/Third party disclosure** - SDARS licensees operating terrestrial repeaters must maintain an accurate and up-to-date inventory of terrestrial repeaters, including the information set forth in 25.263(c)(2) for each repeater, which shall be made available to the Commission upon request. Requirement can be satisfied by maintaining inventory on a secure website that can be accessed by authorized Commission staff.
6. **Not codified (para. 278 of Order)** - SDARS licensees must provide potentially affected WCS licensees with an inventory of their terrestrial repeater infrastructure.

The above information collection requirements have already been approved by OMB under OMB Control No. 3060- 1153.

Order on Reconsideration

On October 17, 2012, the Commission adopted and released an Order on Reconsideration in IB Docket No. 95-91, FCC 12-130. The Order on Reconsideration addressed five petitions for reconsideration of the 2010 WCS R&O and SDARS 2nd R&O. The petitions sought reconsideration or clarification of the Commission's decisions in the 2010 WCS R&O and SDARS 2nd R&O regarding the technical and policy rules governing the operation of WCS stations in the 2305-2320 MHz and 2345-2360 MHz bands and the operation of SDARS terrestrial repeaters in the 2320-2345 MHz band.

As part of the Order on Reconsideration, the Commission adopted proposals to relax the notification requirements for SDARS licensees under Sections 25.263(b) & (c) of the Commission's rules. As adopted in the 2010 WCS R&O and SDARS 2nd R&O, Section 25.263(b) requires SDARS licensees to share with WCS licensees certain technical information at least 10 business days before operating a new repeater, and at least 5 business days before operating a modified repeater. Under Section 25.263(c), SDARS licensees operating terrestrial repeaters must maintain an accurate and up-to-date inventory of all terrestrial repeaters, including the information set forth in 25.263(c)(2) for each repeater, which must be made available to the Commission upon request.

In the Order on Reconsideration, the Commission adopted the following changes to Sections 25.263(b) & (c):

- (1) Changed the notice requirements of Section 25.263(b) to permit SDARS licensees to modify existing facilities, other than changes in location, without prior notice so long as the change does not increase the predicted power flux density at ground level by more than one decibel (dB) (cumulative) and notice of the modification is provided to the affected WCS licensee within 24 hours of deployment.

- (2) Encouraged SDARS licensees to develop separate coordination and notice agreements with WCS licensees, which would control if the procedures of the coordination agreement conflict with the requirements of Section 25.263, including Section 25.263(b); and
- (3) Exempted low-power terrestrial repeaters (that is, repeaters operating below 2 watts equivalent isotropically radiated power) from the notification requirements of Section 25.263(c).

No new information collections were imposed on SDARS licensees in the Order on Reconsideration; instead existing information collections were reduced or eliminated. As a result, the changes adopted in the Order on Reconsideration will reduce the burden hours and responder costs on SDARS licensees.

The statutory authority for the information collections is contained in Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, and 47 U.S.C. Sections 154, 301, 302a, 303, 307, 309, and 332.

The information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information collection requirements contained in Section 25.263 are necessary to determine the potential of radiofrequency interference from SDARS terrestrial repeaters to WCS stations. Without such information, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended.
3. SDARS licensees may provide all notifications to WCS licensees via electronic mail or other electronic media. If requested to do so, SDARS licensees may also transmit inventories of their repeater networks to Commission staff via electronic mail or other electronic media. Consequently, 100% of the information provided under the rule changes can be submitted electronically.
4. The agency does not impose similar information collection requirements on the respondents.
5. In conformance with the PRA, the Commission is making an effort to minimize the burden on all respondents, regardless of size. The Commission has limited the information collection requirements to those that are absolutely necessary for evaluating and processing the application and for deterring possible abuses of the application process. This information collection does not have a substantial impact on any small entities.
6. If the various data in this collection were collected less frequently or not filed in conjunction with our rules, then the risk of radiofrequency interference between SDARS repeaters and WCS stations would increase and may have a harmful effect on service of communications services to the public.
7. The Commission does not propose any new information collection requirements that are not consistent with the general information collection guidelines in 5 CFR § 1320.
8. On March 6, 2013, the Commission published a 60-day notice (Cite: 78 FR14544) in the Federal Register. The comment period ended on May 6, 2013. No comments were received from the public in response to the notice.

9. Respondents will not receive any payments or gifts.
10. There is no need for confidentiality.
11. This information collection does not address any matters of a private or sensitive nature.

12. Estimate of Burden Hours/Respondent Cost:

Please see the charts below for the number of respondents, frequency of response, time per response, total annual burden hours, and explanation of burden estimate for the **one**¹ respondent to this collection.

Explanation of Burden Estimate	Number of Respondents	Frequency of Response and Number of Responses/Year	Time Per Response	Total Annual Burden Hours
47 CFR 25.144(e)(3) SDARS licensee shall, before deploying any new, or modifying any existing, terrestrial repeater, notify potentially affected WCS licensees pursuant to the procedure set forth in 25.263	See 25.263(b) below	See 25.263(b) below	See 25.263(b) below	See 25.263(b) below
47 CFR 25.144(e)(8) SDARS must file an earth station application using Form 312 to obtain blanket authority for terrestrial repeaters operating at 12 kW EIRP (average) or less and in compliance with FCC rules; application must include certain parameters of operation and a certification that the proposed SDARS terrestrial repeater operations will comply with all the rules adopted for such operations	1	4 per year	10 hours	40
47 CFR 25.144(e)(9) The operation of non-compliant repeaters and/or repeaters operating above 12 kW EIRP (average) must be applied for and authorized under individual	1	10 per year	12 hours	120

¹ There is only one respondent to this information collection which makes this information collection require OMB approval.

site-by-site licenses using Form 312 and appropriate waiver of the Commission's rules				
47 CFR 25.263(b) SDARS licensees are required to provide informational notifications as specified in 25.263, incl. requirement that SDARS licensees must share with WCS licensees certain technical information at least 10 business days before operating a new repeater, and at least 5 business days before operating a modified repeater; exempting modifications that do not increase the predicted power flux density at ground level by more than one decibel (dB) (cumulative) and exempting terrestrial repeaters operating below 2 watts equivalent isotropically radiated power	1	28 per year	4 hours	112
47 CFR 25.263(c) Third party disclosure SDARS licensees operating terrestrial repeaters must maintain an accurate and up-to-date inventory of terrestrial repeaters operating above 2 W EIRP, including the information set forth in 25.263(c)(2) for each repeater, which shall be made available to the Commission upon request. Requirement can be satisfied by maintaining inventory on a secure website that can be accessed by authorized Commission staff.	1	4 requests from Commission per year (inventory maintenance assumed to be routine part of operating repeater network)	3 hours	12
Not codified (para. 278 of Order) SDARS licensees must provide potentially affected WCS licensees with an inventory of	1	8 requests per year	3 hours	24

their terrestrial repeater infrastructure.				
TOTALS:	1 Respondent	54 responses	3 - 12 hours per response	308 hours

“In house Cost” – In house staff who will be working on the information collection requirements contained in the chart above is estimated to have hourly salary of \$60 per hour. Therefore, the in house costs to respondents are 308 hours X \$60 per hour = **\$18,480**.

13(a). Total Capital and Start-Up Cost: Zero

13(b). Total Operation and Maintenance Costs: **\$97,710**

The total operation and maintenance costs are calculated as follows:

Respondents are assumed to use outside legal or engineering assistance in order to complete their applications. The cost to applicants for these services is estimated at \$300 per hour. This figure is based on a small survey of local firms in the D.C. area and is considered to be a conservative estimate.

\$300 per hour X 1 respondent X 2 hours per submission X 54 submissions per year = **\$32,400** Annual Costs for Outside Legal/Engineering Assistance.

Application Filing Fees: There are no filing fees associated with the notification and inventory requirements in Sections 25.263(b) & (c) that were modified by the Order on Reconsideration. The fees associated with SDARS terrestrial repeater filings shall be those associated with filings for FSS Very Small Aperture Terminal (VSAT) systems in Section 1.1107 of the Commission’s rules. See SDARS Second Report and Order, 25 FCC Red at 11813, para. 272. Part 25-related application fees for initial FSS VSAT systems are \$9,330.00 per station. There are no filing fees for the Wireless Communications Services (WCS) notification requirements or for provision of repeater inventory to FCC staff.

Although the number of annual application filings was previously estimated at 14 per year, this estimate appears too high given actual experience since the information collections were approved in 2011. In connection with SDARS terrestrial repeaters, only 2 filings were made in 2011 and no filings in 2012. The estimated number of annual applications filings is thus revised to 7 per year, which is probably represents the maximum number of annual filings in any given year (actual filings per year are likely to be less).

A total of 1 respondent X \$9,330 filing fee X 7 filings per year = **\$65,310**

Total Annualized Cost:

Total Costs to the Industry	Totals
Estimated Application Filing Fees	\$65,310
Estimated Cost of Outside Legal/Engineering Assistance	\$32,400
Total Cost to Respondents	\$97,710

14. Estimate of Annualized Cost to the Federal Government:

The estimate of annualized cost to the Federal government is summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are \$34,815.20. The chart contains staff salaries, burden hours and annualized costs.

Federal Government Staff	Number of Staff	Salary Per Hour	Annual Burden Hours	Annualized Costs
GS-15/Step 5 Attorney	1	\$67.21	140	\$9,409.40
GS-14/Step 5 Attorney	1	\$57.13	140	\$7,998.20
GS-15/Step 5 Engineers	1	\$67.21	140	\$9,409.40
GS-14/Step 5 Engineers	1	\$57.13	140	\$7,998.20
	4		760	\$34,815.20

15. This information collection reflects program changes/reductions of 20 fewer responses (reduced from 74 to 54), 92 hours to the annual burden hours (reduced from 400 to 308 hours) and \$73,610 to the annual costs (reduced from \$175,020 to \$97,710) as a result of the information collections contained in the Order on Reconsideration.

There are no adjustments to this information collection.

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

17. We are seeking a waiver of the requirement to display the expiration date of OMB approval on the FCC Form 312 and wish to instead display an edition date. If these forms remain unchanged when it is time to renew OMB approval for this collection, the Commission would be required to destroy all stock on hand displaying the old expiration dates and then reprint and redistribute the forms with the new expiration date. Additionally, it would require the Commission to modify the electronic versions also. This would be an undue burden on Commission resources and may lead to confusion among licensees.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.