

September 2013

Collection titled: Sections 1.946, 1.2105, 27.10, 27.12, 27.14, etc. – Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands – R&O, FCC 13-88.

SUPPORTING STATEMENT

A. Justification:

1. Circumstances that make the revised collection necessary. The Commission adopted the Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands Notice of Proposed Rulemaking (*H Block NPRM*), FCC 12-152, on December 11, 2012. In the *H Block NPRM*, the FCC proposed service rules for the 1915-1920 MHz and 1995-2000 MHz Bands (hereinafter the “H Block”) that would make available 10 MHz of spectrum for flexible use in accordance with the Middle Class Tax Relief and Job Creation Act of 2012.¹ The *H Block NPRM* also proposed new information collection requirements that require Office of Management and Budget (OMB) approval. Therefore, the Commission submitted to OMB for approval of this new information collection for a full three-year clearance.

These proposed rules were designed to provide for flexible use of this spectrum, to encourage innovation and investment in mobile broadband, and to provide a stable regulatory environment in which broadband deployment could develop. The *H Block NPRM* proposed terrestrial service rules for these spectrum bands that would generally follow the Commission’s Part 27 rules, which apply to flexible use services (such as AWS-1), modified as necessary to account for issues unique to the 1915-1920 MHz and 1995-2000 MHz spectrum bands. The proposals in the *H Block NPRM* included band-specific build-out, renewal, and discontinuance of service criteria.

On June 27, 2013, the FCC adopted the Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands Report and Order (*H Block R&O*), FCC 13-88, WT Docket No. 12-357. The *H Block R&O* adopted service rules for the H Block that makes available 10 MHz of paired spectrum for flexible use in accordance with the Middle Class Tax Relief and Job Creation Act of 2012. The *H Block R&O* built upon the *H Block NPRM*, and contains the new information collection requirements that were proposed in the *H Block NPRM* and that require OMB approval.

For this collection, subject to OMB approval, the Commission in the *H Block R&O*, FCC 13-88, adopts flexible use rules for 10 megahertz of spectrum in the 1915-1920 MHz and 1995-2000 MHz spectrum bands (H Block) that would increase the nation’s supply of spectrum for mobile broadband. We adopt H Block terrestrial service rules, modified as necessary to account for issues unique to the H Block bands. First, we find the spectrum is properly allocated for commercial use as required by the Spectrum Act. Second, we determine the H Block can be used without causing harmful interference to PCS operations in the 1930-1995 MHz band. Third, we establish 1915-1920 MHz paired with 1995-2000 MHz as the H Block band plan. Fourth, we adopt technical rules that authorize mobile and fixed

¹ See Pub. L. No. 112-96, 125 Stat. 156. (“Spectrum Act”)

operations in the bands and protect operations in adjacent and nearby spectrum bands from harmful interference pursuant to the requirements of the Spectrum Act. Fifth, we adopt cost sharing rules that require H Block licensees to pay a pro rata share of expenses incurred through clearing the 1915-1920 MHz and 1995-2000 MHz bands. Sixth, we adopt a variety of flexible use regulatory, licensing, and operating rules for H Block licensees. Seventh, we adopt performance requirements for the H Block spectrum. Specifically, a licensee of H Block will be subject to build-out requirements that require a licensee to provide terrestrial signal coverage and offer terrestrial service to at least 40 percent of its license areas' population within four years, and to at least 75 percent of the population in each of its license areas within ten years, and to appropriate penalties if these benchmarks are not met. Eighth, we adopt procedures to assign H Block licenses through a system of competitive bidding.

The following is a description of each rule section requirement for which the Commission seeks OMB approval:

- (a) **Section 1.946(d)** requires H Block licensees to file a construction notification and certify that they have met the applicable performance benchmarks.
- (b) **Section 1.2105(a)(2)(xii)** requires applicants for spectrum licensed pursuant to the Spectrum Act, including H Block applicants, to certify that they have not been barred for reasons of national security by any federal government agency from bidding on a contract, participating in an auction, or receiving a grant.
- (c) **Section 27.10(d)** requires an H Block licensee to notify the Commission within 30 days if it changes, or adds to, the carrier status on its license.
- (d) **Section 27.12** requires H Block licensees to comply with certain foreign ownership reporting requirements.
- (e) **Section 27.14** requires H Block licensees to file license renewal applications. Included in the application should be a detailed description of: (1) the level and quality of service provided by the applicant; (2) the date service commenced; (3) whether service was ever interrupted; (4) the duration of any interruption or outage; (5) the extent to which service is provided to rural areas; (6) the extent to which service is provided to qualifying Tribal lands; and (7) any other factors associated with the level of service to the public.
- (f) **Section 27.17** requires H Block licensees to notify the Commission within ten days if they permanently discontinue service by filing FCC Form 601 or 605 and requesting license cancellation.

Statutory authority for these collections are contained in 15 U.S.C. 79 et seq.; 47 U.S.C. §§ 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1404, and 1451.

As noted on the Form 83-i, these information collections do not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. Use of information. The Commission will use the information to ensure H Block licensees' compliance with required filings of notifications, certifications, regulatory status changes, and applicable performance benchmarks. Also, such information will be used to verify whether H Block applicants and, in the context of the national security certification requirement, whether other applicants for Spectrum Act licenses are legally and technically qualified to hold licenses; and to determine compliance with Commission rules. Any submissions made through the Universal Licensing System must be filed electronically.

3. Technological collection techniques. Before finalizing this rulemaking, WTB conducted an analysis to ensure that improved information technology could 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 data bases in the Commission or other Federal agencies. The Commission encourages licensees to provide the requested information and notifications electronically in situations where licensees wish to use electronic means and the Commission's regulations permit this approach. Any submissions made through the Universal Licensing System (ULS) must be filed electronically. Additionally, the clearinghouses use technological collection techniques, such as electronic filing, to reduce the burden on respondents.

4. Efforts to identify duplication. There will be no duplicative information collected. The information sought is unique to each respondent and is not already available because the Commission does not impose a separate similar information collection on the respondents. Thus, there is no similar data available under another information collection. Moreover, the information proposed to be collected under the revised collection implements a new statutory requirement.

5. Impact on small entities. In conformance with the Paperwork Reduction Act of 1995 ("PRA"), the Commission is making an effort to minimize burdens on all respondents, regardless of size. The Commission has limited the information requirements to those absolutely necessary for evaluating compliance with Commission rules.

6. Consequences if information is not collected. The information collected will only be required to apply to license the H Block and when an H Block licensee changes its regulatory status, or provides certain notifications or certifications to the Commission. Therefore, the frequency of the filing would be determined by the applicant/licensee. Renewal applications must be filed once every ten years.

7. Special circumstances. No special circumstances exist for this collection.

8. Federal Register notice; efforts to consult with persons outside the Commission. Pursuant to 5 C.F.R. § 1320.11, the FCC published the *H Block R&O* in the Federal Register on August 16, 2013 (78 Fed. Reg. 50213). The FCC published the *H Block NPRM* in the Federal Register on January 8, 2013 (78 Fed. Reg. 1166). At the time of submission to OMB, no PRA comments have been received.

9. Payments or gifts to respondents. Respondents will not receive any payments.

10. Assurances of confidentiality. There is no need for confidentiality.

11. Questions of a sensitive nature. The reporting and disclosure requirements described herein do not address any private matters of a sensitive nature.

12. Estimate of Respondent Burden: For purposes of this supporting statement, the Commission estimates that there will be 100 applicants and 20 licensees for the H Block licenses.²

Please see the chart below for the number of respondents, frequency of response, time per response, total annual burden hours. Our explanation of the estimates for each item follows the chart.

² The estimates for the collection proposed in the *H Block NPRM* were raised to reflect the Commission's decision in the *H Block R&O* to extend the national security certification to secondary market transactions.

12 -	Burden on Respondents	Number of Respondents	Frequency of Responses	Time per Response (Hours)	Total Annual Burden Hours
a.	§ 1.946(d) H Block Licensee Construction Notification, Certification, or Cancellation (Form 601 or Form 605)	0	0	0	0
b.	§ 1.2105(a)(2)(xii) H Block Applicant National Security Certification	100	1	.25	25
c.	§ 27.10(d) H Block Licensee Change in Regulatory Status	2	On occasion	.25	.50
d.	§ 27.12 Foreign Ownership Compliance pursuant to § 310 (b)	2	On occasion	.5	1
e.	§ 27.14 H Block ten year license renewal	0	1 (every 10 years)	0	0
f.	§ 27.17 H Block Licensee Notification of changes resulting in discontinuance, reduction, or impairment	0	0	0	0
	Totals:	100		1.0 Hours	26.50 Hours (rounded to 27 hours)

12-a. Reporting- Compliance with performance requirement for H Block licensees pursuant to 47 C.F.R. § 1.946(d). The Commission proposes adopting performance requirements for the H Block that require H Block licensees to provide signal coverage and offer service to 40 percent of the license area's population within four years and 70 percent within ten years, along with accompanying reporting requirements. However, the Commission has not proposed any deadlines associated with the performance requirements over the next three years. Thus we do not anticipate any burden hours for this collection during the next three-year approval period.

= **0 hours** (this entry is on the statement merely to remind FCC staff to reactivate it in the future and to act as a place holder for this requirement.)

12-b. Reporting- Compliance with National Security Certification pursuant to 47 C.F.R. § 1.2105(a)(2)(xii). H Block applicants must certify that they have not been barred by any federal government agency from bidding on a contract, participating in an auction or receiving a grant, for reasons of national security. The Commission estimates that the additional certification will not measurably increase the estimated average amount of time to complete an application for a Spectrum Act license across the range of respondents/applicants. The Commission estimates that it would take about .25 hours to complete this filing and that perhaps 100 H Block applicants would make this filing over the next three years. On average, the Commission believes that these filings will be prepared by a licensee's existing staff attorneys ("in-house") at approx. \$58.39 per hour.

12-c. Reporting- Compliance with Change in Regulatory Status for H Block licensees pursuant to 47 C.F.R. § 27.10(d). An H Block licensee must notify the Commission within 30 days if it changes, or adds to, the carrier status on its license. We estimate that two H Block licensees would make this occasional filing over the next three years. On average, the Commission believes that these filings will be prepared by a licensee's existing staff attorneys ("in-house") at approx. \$58.39 per hour.

2 respondents x .25 hrs. = **.50 hours.**

Cost per H Block response = \$ 14.60 Internal cost = \$ 29.20

12-d. Reporting- Compliance with Foreign Ownership Filing Requirements pursuant to 47 C.F.R. § 27.12. The Commission estimates that it would take about .5 hours to complete this filing and that perhaps two H Block licensees would make this occasional filing over the next three years. On average, the Commission believes that these filings will be prepared by a licensee's existing staff attorneys ("in-house") at approx. \$58.39 per hour.

2 respondents x 0.5 hours per response = **1.0 hours.**

Cost per response = \$29.20 Internal cost = \$58.39-

12-e. Reporting- Compliance with License Renewal pursuant to 47 C.F.R. § 27.14. The Commission proposes that H Block licensees must renew their H Block licenses every ten years by filing a license renewal application. Because the license renewal application will not be filed until ten years after the initial license is granted, we do not anticipate any burden hours for this collection during the next three-year approval period.

= **0 hours** (this entry is on the statement merely to remind FCC staff to reactivate it in the future and to act as a place holder for this requirement.)

12-f. Reporting- Compliance with Licensee Notification of Permanently Discontinuing Service pursuant to 47 C.F.R. § 27.17. H Block licensees must notify the Commission within ten days if they permanently discontinue service by filing FCC Form 601 or 605 and requesting license cancellation. We do not anticipate any burden hours for this collection during the next three-year approval period.

= **0 hours** (this entry is on the statement merely to remind FCC staff to reactivate it in the future and to act as a place holder for this requirement.)

TOTAL ANNUAL BURDEN: 25 + .50 + 1 = 26.50 hours

13. Annual Costs to the Respondent:

No external costs are expected under this collection request or estimated at this time. Internal costs are discussed in item 12.

Applicants should not incur outside capital and start-up costs or operation and maintenance of purchase or services in connection with this information collection.

TOTAL CAPITAL AND START-UP COSTS or OPERATION AND MAINTENANCE (O&M COSTS):

None at this time.

14. Government Costs:

14-a. *Performance Requirement for H Block licensees pursuant to 47 C.F.R. § 1.946(d).* The Commission adopted rules that require H Block licensees to provide signal coverage and offer service to 40 percent of the license area's population within four years and 70 percent within ten years, but it has not adopted any deadlines associated with the performance requirements over the next three years. Thus we do not anticipate any burden hours for this collection during the next three-year approval period.

14-b. *Compliance with National Security Certification pursuant to 47 C.F.R. § 1.2105(a)(2)(xii).* We estimate that the cost to the Commission for a GS 7 legal instrument examiner at \$19 (rounded off) per hour to take .25 hrs. to review the estimated 100 certifications stating that the applicants have not been barred for reasons of national security by any federal government agency from bidding on a contract, participating in an auction or receiving a grant is \$475.

14-c. *Change in Regulatory Status for H Block licensees pursuant to 47 C.F.R. § 27.10(d).* We estimate that the cost to the Commission for a GS 7 legal instrument examiner at \$19 (rounded off) per hour to take .25 hrs. to review the two changes in regulatory status that might be filed is \$9.50.

14-d. *Foreign Ownership Notifications pursuant to 47 C.F.R. § 27.12.* We estimate that the cost to the Commission for a GS 7 legal instrument examiner at \$19 (rounded off) per hour to take .25 hrs. to review each of the two foreign ownership change submissions that might be filed is \$9.50.

14-e. *Compliance with License Renewal pursuant to 47 C.F.R. § 27.14.* The license renewal application will not be filed until ten years after the initial license is granted so we do not anticipate any license renewal applications being filed during the next three-year approval period.

14-f. *Licensee Notification of Permanently Discontinuing Service pursuant to 47 C.F.R. § 27.17.* We do not anticipate any notifications being filed for this collection during the next three-year approval period.

Total cost to the government: \$475 + \$9.50 + \$9.50 = \$494.

15. *Program changes or adjustments from the revised collection.* This is an information collection resulting in a program change increase of 26.50 total annual burden hours.

16. *Collections of information whose results will be published.* The data will not be published for statistical use.

17. *Display of expiration date for OMB approval of information collection.* We do not request OMB approval to not display the expiration date for OMB approval of the information collection. The Commission publishes a comprehensive listing of all OMB-approved information collections in 47 C.F.R. § 0.408. This listing "displays" the title of the collection, its OMB control number and OMB expiration date.

18. *Exceptions to certification statement for Paperwork Reduction Act submissions (Item 19 on OMB Form 83-I).* There are no exceptions.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.