

SUPPORTING STATEMENT

A. Justification:

1. On October 24, 2014, the Federal Communications Commission released a *Report and Order*, FCC 14-172, PS Docket No. 13-87 (attached) that modified Part 90 of the Rules for private land mobile radio services. Specifically, the Report and Order modifies Section 90.531 in two respects. First, the *Report and Order* designates the twenty-four 12.5 kilohertz bandwidth reserve channel pairs for General Use subject to the approved regional planning committees' regional plans. Each applicant for General Use Reserve Spectrum shall notify the relevant Regional Planning Committee(s) prior to filing a license application with the Commission and allow the Regional Planning Committee the opportunity to review the application and prepare a statement of concurrence. Any statement of concurrence from the Regional Planning Committee shall be submitted with the applicant's license application. Therefore, these licensees and regional planning committees will incur a one-time burden each time an application is filed with the Commission. Additionally, T-Band incumbents that seek to license the Reserve Channels must commit to return to the Commission an equal amount of T-Band spectrum.

Second, the *Report and Order* redesignates the Secondary Trunking Channels to support Air-Ground communications subject to State administration. The Report and Order assigns responsibility for coordinating these channels to the states. Each applicant for Air-Ground spectrum shall notify the relevant State prior to filing a license application with the Commission and allow the State the opportunity to review the application and prepare a statement of concurrence. A statement of concurrence from the State shall be submitted with the applicant's license application.

The following specific methods are proposed to ensure compliance with modified Section 90.531(b)(2) and 90.531(b)(7) and simplify filing processes for license applicants:

- 1) For general use reserve spectrum, a statement of concurrence from the Regional Planning Committee shall be submitted with the applicant's license application. T-Band incumbents must also submit a statement demonstrating a commitment to return T-Band spectrum with their license application.
- 2) For Air-Ground spectrum, a statement of concurrence from the State shall be submitted with the applicant's license application.

The following information was submitted with the previous OMB approval of OMB Control No.3060-1198, and is offered as background:

1. Pursuant to the Balanced Budget Act of 1997, the Commission reallocated 24 megahertz of electromagnetic spectrum in the 700 MHz band (769-776/799-806 MHz) to ensure the efficient and effective use of that spectrum to meet the Nation's critical public safety communications needs. In this connection, the Commission established a communications framework relying on states and regional planning committees to develop plans for use of available frequencies in ways that best meets the needs of public safety agencies. Specifically, the Commission adopted national standards for the operation and use of interoperability, general use and state license channels in the band. The Commission requires that (1) license applications for interoperability channels to be authorized by state-level agencies or organizations responsible for administering emergency communications; (2) license applications for General Use and certain low power channels to be approved by regional planning committees; and (3)

States to certify whether or not they are providing or prepared to provide substantial service on state channels by certain benchmark dates as a condition of their license. The specific rules sections for which we seek OMB approval are:

47 C.F.R. § 90.525 - Administration of interoperability channels.¹ Requires license applicants for interoperability channels to obtain concurrence from a state-level agency or organization responsible for administering these channels.

47 C.F.R. § 90.529 - State License.² Requires licensees on state channels to demonstrate that they are providing or prepared to provide substantial service to one third of their population or territory by June 13, 2014 and two thirds by June 13, 2019.³ Substantial service refers to service which is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal. A licensee will be deemed to be prepared to provide substantial service if the licensee certifies that a radio system has been approved and funded for implementation by the deadline date.⁴ If a state licensee fails to meet any criteria of the benchmark, the state license is modified automatically to the frequencies and geographic areas where the state certifies that it is providing substantial service. Any recovered state license spectrum will revert to the general use pool. However, spectrum licensed to a state under a state license remains unavailable for reassignment to other applicants until the Commission's database reflects the parameters of the modified state license.

Recently, the Public Safety and Homeland Security Bureau provided guidance on how State licensees may demonstrate that they are providing substantial service on their state license channels by describing: (1) what kind of public safety service they are providing on the state channels; (2) which state channels are in use in the State License system; (3) whether they are making their showing based upon population or territory; (4) what percentage of territory or population is served by the State Licensee's system composite footprint; (5) whether the system footprint is defined by the 40 dBuV/m F(50,50) service contour or an alternate signal level value.⁵

If a State licensee defines its composite system footprint using a signal level other than the 40 dBuV/m F(50,50) signal level it should indicate why the alternate value is appropriate.

Furthermore, if a State licensee makes any portion of its benchmark showing based upon unconstructed facilities, it should indicate if it received approval for funding for that portion of the system prior to the deadline.

¹ Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010, WT Docket 96-86, *Fourth Report and Order and Fifth Notice of Proposed Rulemaking*, 16 FCC Rcd 2020 (2001).

² Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010, WT Docket 96-86, *Third Memorandum Opinion and Order and Third Report and Order*, 15 FCC Rcd 19844 (2000).

³ Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands, WT Docket 96-86, *Order*, 27 FCC Rcd 15010 (2012).

⁴ See OMB Control No. 3060-0798.

⁵ See Public Safety and Homeland Security Bureau Provides Guidance to 700 MHz Narrowband State Licensees Regarding Interim Substantial Service Benchmark Showing Due on June 13, 2014, WT Docket 96-86, *Public Notice*, 29 FCC Rcd 3706 (PSHSB 2014).

*47 C.F.R. § 90.531 - Band plan.*⁶ Requires licensees on the general use channels to operate in conformance with Commission approved regional planning committee regional plans. License applicants for the general use channels may demonstrate conformance with regional plans by demonstrating concurrence from the applicable regional planning committee. T-Band incumbents seeking access to the General Use Reserve channels must also demonstrate commitment to return an equal amount of T-Band spectrum. Further, applicants seeking access to the Air-Ground channels must obtain state approval.

Statutory authority for this collection of information is contained in sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 161, 303(g), 303(r), 332(c)(7), unless otherwise noted.

This information collection does not affect individuals or households; thus, there is no impact under the Privacy Act.

2. For information submitted to the Commission, Commission personnel will use the information obtained to assign licenses, and also use the information to determine compliance with regional spectrum and state interoperability requirements. The information will also be used to determine whether prospective licensees will operate in compliance with the Commission's rules. Without such information, the Commission could not accommodate regional planning or state interoperability requirements or provide for the optimal use of the available frequencies. For information provided to, or exchanged among third parties, the data will be used to establish eligibility.

Additionally, the information is used by the Commission staff to determine whether or not state licensee certifications demonstrate substantial service at the time of their benchmark construction/operation deadline. Without this information, the Commission would not be able to carry out its statutory responsibilities. The third party disclosure coordination requirements are necessary to ensure that licensees do not cause interference to each other.

3. The Commission requires applicants for state interoperability spectrum and general use spectrum to show compliance with state interoperability and regional planning requirements, respectively. The Commission requires state licensees to demonstrate substantial service as a condition of license grant. Also, it is mandatory that the requested information be filed electronically through the Universal Licensing System (ULS).

4. This agency does not impose a similar information collection on the respondents. There are 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. Without the submission of state or regional planning committee concurrence, the Commission could not identify and accommodate state interoperability and regional requirements. The information is

⁶ Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010, WT Docket 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998).

initially collected only once at the license application stage, although licensees are permitted to modify their licenses as needed. Thus, the frequency of filing is determined by the respondents. If applicants did not provide statements of concurrence from state agencies or regional planning committees to assist the Commission in determining eligibility, it would take much longer for the Commission to process license applications.

With regard to State licenses, the substantial service information collected is generally required twice during the initial license term. Licenses have ten year terms.

7. Current data collection is consistent with 5 C.F.R § 1320.6.

8. The Commission published a 60-day notice soliciting public comment which appeared in the Federal Register on *December 29, 2014 [79 FR 78089]*, seeking comments from the public on the information collection requirements contained in this supporting statement. No comments were received as a result of the notice.

9. Respondents will not receive any payments.

10. There is no need for confidentiality with this collection of information.

11. There are no collections of information that are considered sensitive in nature or of a private matter being sought from the applicants on this collection.

12. The Commission has derived the following estimates of the burden on respondents:

a. 47 C.F.R. § 90.525 – Administration of interoperability channels. Based on a search of the Commission’s licensing database, staff believes there are currently 63 700 MHz licensees of interoperability channels. We also estimate that copies of approximately 100% of these requests for State agency concurrence are filed electronically with state entities per year.

The time required for electronic filing is estimated to be 1 hour per transaction (1 hour) for a total annual burden of 63 hours annually:

$$1 \text{ hour} \times 63 = \mathbf{63 \text{ hours.}}$$

We estimate that the applications will be filed electronically with state - level agencies or organizations responsible for administering state emergency communications. In this latter case, the state or certifying organization will generally electronically file a statement approving or denying the license application. The estimated time to electronically file each approval decision will be 1 hour for a total annual burden of 63 hours:

$$1 \text{ hour} \times 63 = \mathbf{63 \text{ hours.}}$$

Total Number of Respondents: 126.

Total Number of Responses Annually: 126.

Total Annual Hourly Burden: 63 + 63 = 126 hours.

We note that the annual hourly burden per respondent will vary depending on the number of applications filed by each respondent and whether the application and supporting statement is filed electronically.

“In-House Cost”: The Commission estimates that local and state government personnel will be paid an hourly rate of \$40 per hour to fulfill the requirements contained in this collection.

Total Annual “In House” Cost: 126 burden hours x \$40 per hour = **\$5,040**

b. 47 C.F.R. § 90.529 - State License.

Each state license is granted subject to the condition that the state certifies on or before each applicable benchmark date that it is providing or prepared to provide “substantial service.” If a state licensee fails to meet any condition of the grant the state license is modified automatically to the frequencies and geographic areas where the state certifies that it is providing substantial service. Any recovered state license spectrum will revert to General Use. However, spectrum licensed to a state under a state license remains unavailable for reassignment to other applicants until the Commission’s database reflects the parameters of the modified state license. In order to comply with the conditions of the license grant, State licensees should submit a showing that includes:

- (1) a description of its current service in terms of geographic coverage and population served;
- (2) a description of the funding approved for the system;
- (3) a description of public safety services the licensee provides with the system;
- (4) a list of channels in use in the system; and
- (5) a description of the signal level being used to determine the system footprint.

Based on a search of the Commission’s licensing database, staff believes that 53 state licenses have been issued licenses for narrowband channels designated for State use. We also estimate that copies of approximately 100% of these applications are filed electronically with state entities per year.

The time required for the preparation and electronic filing by the state demonstrating substantial service is estimated to be 2 hour per transaction for a total annual burden of 106 hours:

2 hours x 53= **106 hours**

Total Number of Respondents: 53.

Total Number of Responses Annually: 53.

Total Annual Hourly Burden: 106 hours.

We note that the annual hourly burden per respondent will vary depending on the number of applications filed by each respondent and whether the application and substantial service certification is filed electronically.

“In-House Cost”: The Commission estimates that state government personnel will be paid an hourly rate of \$40 per hour to fulfill the requirements contained in this collection.

Total Annual “In House” Cost: 106 burden hours x \$40 per hour = **\$ 4,240**

c. 47 C.F.R. § 90.531 - Band Plan.

Based on a search of the Commission’s licensing database, staff believes 999 licensees have been issued for narrowband General Use channels. Staff also estimates that at least one T-Band incumbent in each of the eleven T-Band markets will seek General Use Reserve channels. We also estimate that copies of approximately 100% of these licensees electronically requested regional planning committee concurrence. In addition, staff estimates at least one applicant in each of the 50 states, Washington, D.C., Puerto Rico and the U.S. Virgin Islands will request state concurrence for Air-Ground channels.

The time required for electronic filing for each request for regional planning concurrence is estimated to be 1 hour per transaction (1 hour) for a total annual burden of 999 hours annually.

1 hour x 999 = **999 hours.**

General use channels require Regional Planning Committee approval. We estimate the time required for review and approval of each general use request is estimated to be 1 hour per transaction for a total annual burden of 999 hours annually:

1 hour x 999 = **999 hours.**

The time required for electronic filing for each request for state concurrence is estimated to be 1 hour per transaction (1 hour) for a total annual burden of 53 hours annually.

1 hour x 53 = **53 hours.**

Air-Ground channels require State approval. We estimate the time required for review and approval of each Air-Ground request is estimated to be 1 hour per transaction for a total annual burden of 53 hours annually:

1 hour x 53 = **53 hours.**

Total Number of Respondents: 2104.

Total Number of Responses Annually: 2104.

Total Annual Hourly Burden: 999 + 999 + 53 + 53 = **2104 hours.**

We note that the annual hourly burden per respondent will vary depending on the number of applications filed by each respondent and whether the application and concurrence statement is filed electronically.

“In-House Cost”: The Commission estimates that regional planning committees, state and local government personnel will be unpaid volunteer staff or will be paid an hourly rate of \$40 per hour to fulfill the requirements contained in this collection.

Total Annual “In House” Cost: 2104 burden hours x \$40 per hour = **\$84,160**

Total Number of Respondents: 126 + 53+ 2104 = **2,283 Respondents.**

Total Number of Annual Responses: 126 + 53+ 2104 = **2,283 Responses.**

Total Combined Burden Hours: 126 + 106 + 2104 = **2,336 hours.**

Total Combined “In-house” Cost: \$5,040 + \$4,240 + \$84,160 = **\$93,440.**

13. The Commission believes that the coordination of applications with state entities and the regional planning committee, and the preparation of substantial service showings, will impose no annual cost burden on respondents from either capital or start-up costs, or from operation and maintenance of equipment, or from purchase of outside services. The Commission believes that the state, local and tribal entities and other interested entities already possess the necessary materials, and that the agencies and other interested entities will have procured these materials in the course of conducting their customary and usual business. The Commission further believes that the affected entities already employ a large pool of highly able professional and clerical staff, which makes the likelihood of purchase of outside services remote.

14. Cost to Federal Government.

Processing Costs for State and Regional Planning Committee Concurrence Statements:

Program analysts will be reviewing state and regional planning committee concurrence statements to ensure that they contain the information required by the rules and determining that the applicant meets the Commission’s eligibility rules.

Program Analyst GS 14-5 at approximately \$57.70/hour x 1 hour x 1051 = \$60,642.70

Processing Costs for Substantial Service Showings:

Attorneys and engineers will be reviewing substantial showings to ensure that they contain the information required by the rules and determining that the level of service provided meets the substantial service standard.

Attorney GS-14-5 at approximately \$57.70/ hour x 1 hour x 53 = \$3,058.10

Engineer GS-14-5 at approximately \$57.70/hour x 1 hour x 53 = \$3,058.10

Total cost to the Federal Government is: \$6,116.20

Total Cost to the Federal Government: \$60,642.70+ \$6,116.20= **\$66,758.90.**

15. The total annual burden for **2,283** respondents is estimated to be **2,336** hours and the cost burden is estimated to be **\$93,440**. The changes to the previously approved collection result from two decisions in the Commission’s recent Report and Order in PS Docket 13-87, released on October 24, 2014. The following specific methods are adopted to ensure compliance with modified Section 90.531(b)(2) and 90.531(b)(7) and simplify filing processes for license applicants:

- 1) For general use reserve spectrum, a statement of concurrence from the Regional Planning Committee shall be submitted with the applicant's license application. T-Band incumbents must also submit a statement demonstrating a commitment to return T-Band spectrum with their license application.
- 2) For Air-Ground spectrum, a statement of concurrence from the State shall be submitted with the applicant's license application.

We anticipate further reducing this cost burden as states submit substantial service showings, thus making the information collections in Section 90.529 obsolete.

16. The 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. The Commission publishes a list of all OMB-approved information collections including their titles, OMB Control Numbers and OMB expiration dates in 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the Certification Statement

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.