

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 antenna structure registrations 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 to make radio tower owners, as well as Commission licensees and permittees, responsible for the painting and lighting of radio tower structures, and to provide that non-licensee radio tower owners may be subject to forfeiture for violations of painting or lighting requirements specified by the Commission.

On December 9, 2011, the Commission adopted and released FCC 11-181, the Migratory Bird Order on Remand (Remand Order), 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 Antenna Structure Registration (ASR) procedures did 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 added a pre-application notification process to the ASR procedures so that members of the public would have a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission. In order to comply with the Remand Order, the Commission added questions to Form 854 that facilitated the pre-application notification process and helped the Commission to more efficiently process antenna structure registrations.

On October 17, 2014, the Commission adopted FCC 14-153, the Wireless Infrastructure Report and Order (Report and Order), which altered the public notification process for certain temporary towers. In the Report and Order, the Commission adopted a narrow exemption from the public notification

process for proposed temporary antenna structures meeting defined criteria, including limits on the size and duration of the installation, that greatly reduce the likelihood of any significant environmental effects. Specifically, the exemption from the environmental notification process applies only to temporary antenna structures that: (1) do not require an Environmental Assessment under the Commission's rules; (2) will be in place for 60 days or less; (3) require notice of construction to the FAA; (4) do not require marking or lighting under FAA regulations; (5) will be less than 200 feet above ground level; and (6) will involve minimal or no ground excavation. The Report and Order also provided that applicants may request and obtain a single extension of up to 60 additional days upon an appropriate showing.

As a result, the Form 854 is being revised to permit applicants to indicate that they are claiming the new exemption and certify that they meet the relevant requirements, and also to request an extension of the exemption. These changes are necessary to implement the new exemption from the public notification process for temporary antenna structures. They will therefore enable the Commission to more efficiently process antenna structure registrations and, by allowing registrants to deploy covered temporary structures without first having to complete the notification process, will enable them to more effectively respond to emergencies, natural disasters, and other planned and unplanned short-term spikes in demand without undermining the purposes of the notification process.

This information collection contains personally identifiable information (PII) on individuals which is subject to the Privacy Act of 1974. Information on the FCC Form 854 is maintained in the Commission's System of Records, FCC/WTB-1, "Wireless Services Licensing Records." These licensee records are publicly available and routinely used in accordance with Subsection (b) of the Privacy Act, 5 U.S.C. § 552a(b), as amended. Taxpayer Identification Numbers (TINs) and materials that are afforded confidential treatment pursuant to a request made under 47 C.F.R. § 0.459 of the Commission's rules are not available for public inspection.

Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 303, 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 associated with this information collection will be used by the Commission to maintain a current antenna structure registration database. This database will allow the FAA 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 ASR database is publicly available except materials which are afforded confidential treatment under 47 C.F.R. § 0.459.

3. Approximately 99% of the Form 854s are filed electronically and all Form 854s are available to the public from the Commission's website.
4. This agency does not impose any other information collection on the respondents that is similar to

this collection. 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 process.
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 before erecting 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 C.F.R. § 1320.
8. The Commission initiated a 60-day public comment period which appeared in the *Federal Register* on November 9, 2014 (79 FR 69472). At the time of submission to the OMB, no comments have been received.
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 C.F.R. § 0.459 are not available for public inspection.
11. This collection does not address private matters of a sensitive nature, and the 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 approximately 2,400 annual respondents. The frequency of response is determined by the antenna structure owner. There is no renewal period for the responses. The number of total annual responses is approximately 57,000. Only 95% of these responses will be handled in-house. We assume, however, that respondents will use in-house clerical staff to coordinate the 5% of responses that will be contracted to another party, for approximately 30 minutes per response.

Below is a breakdown of in-house responses and times to complete responses based on the Commission's knowledge and familiarity with the availability of the data required.

- Approximately 46,313 responses per year will request administrative or other minor changes that are not subject to the environmental notice process and average 20 minutes to complete by respondents.
- Approximately 7,609 responses per year will be subject to the environmental notice

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process by respondents but will not require an Environmental Assessment. (Note that this number is roughly 2% lower than it would be without the new temporary tower exemption.)

- o Approximately 80% (rounded) will take 1 hour to complete.
- o Approximately 20% (rounded) will require a field survey. These will require a total of 1.5 hours of respondent time to prepare and file, including the time to complete the notice process.
- Approximately 228 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 2,850 responses will be handled by contractors. We anticipate that in-house clerical staff will spend a total of .5 hours per response coordinating these responses with contractors.

Burden Hours

Filings	Responses	Hours to Complete	Total Hours
Minor Changes	46,313	.33	15,283
Environmental Notice Process	6,089	1.0	6,089
Site Survey	1,520	1.5	2,280
Environmental Assessment	228	2.5	570
Contract Coordination	2,850	.5	1,425
TOTAL ANNUAL BURDEN HOURS			25,647¹

TOTAL NUMBER OF RESPONDENTS: 2,400.

TOTAL NUMBER OF ANNUAL RESPONSES: 57,000.

TOTAL ANNUAL BURDEN HOURS: 25,647 hours.

In-house Cost: 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.

Total in-house filing burden hours = 46,313 + 6,089 + 1,520 + 228 = 24,222

24,222 hours x \$35/hour= **\$847,770**

We assume respondents will use clerical staff to coordinate the 5% of responses that will be

¹ This total burden also accounts for the recordkeeping requirements for this collection.

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contracted to another party, at approximately \$17 per hour. We expect this coordinating work to take approximately 30 minutes per response.

57,000 responses x .05 x .5 hours = 1,425 hours
1,425 hours x \$17 per hour = **\$24,225**

TOTAL ANNUAL IN-HOUSE COST: \$847,770 + \$24,225 = \$871,995

13. 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.

57,000 responses x .05 x .50 hours = 1,425 hours
1,425 hours x \$175 an hour = \$249,375

1,650 responses subject to the environmental notification process, will require a field survey which requires 5 hours of contracted biological services. In addition, approximately 120 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.

1,650 x 5 hours x \$60 an hour = \$495,000
120 responses x 60 hours x \$60 an hour = \$432,000

TOTAL ANNUAL COST BURDEN: \$249,375 + \$495,000 + \$432,000 = \$1,176,375.

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.

57,000 responses annual responses x .01 = 570 annual responses
570 annual responses x \$35 per hour x .166 hour = \$3,312

A GS-11 Step 5 Industry Analyst will review responses subject to the Environmental Notification Process. The review time will average 15 minutes per response subject to review.

8,250 annual responses x .25 hours x \$35 per hour (rounded) = \$72,188

A GS-14 Step 5 Biologist (or contract equivalent) will, on average, spend approximately 2 hours reviewing Environmental Assessments that contain biological analysis.

120 responses x 2 hours x \$58 per hour (rounded) = \$13,920

Approximately 10% of a GS-13 Step 5 Program Analyst's time is devoted to the oversight and

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maintenance of the automated processing system, including processing applications that cannot be processed by automated means.

$\$102,932 \text{ annual salary} \times .10 = \$10,293$

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

$\$54,044 \text{ annual salary} \times .05 = \$2,702$

Cost to the Federal Government: $\$3,312 + \$72,188 + \$13,920 + \$10,293 + \$2,702 = \$102,415$

Sub-Total	\$102,415
Overhead Costs (25%)	<u>\$ 25,604</u>
	\$128,019

TOTAL ANNUAL COST TO THE FEDERAL GOVERNMENT: \$128,019.

15. The Commission has adjustments to this collection and they are as follows: decrease of 100 to the number of respondents (from 2,500 to 2,400), an increase of 9,500 to the annual number of responses (from 47,500 to 57,000), an increase of 4,302 in the annual burden hours (from 21,345 to 25,647) and an increase in the annual cost of \$200,650 (from \$975,725 to \$1,176,375). These increases are due to an increase in the number of responses and minor increases in hourly wages, not to the new exemption. The increased burden is due only to an increase in the total number of responses, not the new exemption adopted in the Report and Order, FCC 14-153. The revisions to Form 854 to implement the new exemption for temporary towers from environmental notification process will actually lower the number of responses that would otherwise be submitted without these revisions. (In other words, the burden figures presented below are lower than they would be without the new exemption.) Further, the Commission does not estimate any increase in the average burden per response due to the revisions to Form 854.

There are no program changes to this collection.

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 C.F.R. § 0.408. This section includes the OMB control number, title of the collection and OMB expiration date.
18. The Commission published a notice in the Federal Register on November 9, 2014 (79 FR 69472) seeking PRA comments from the public on the information collection requirements that are contained in this collection. In the notice, the Commission published the total annual burden hours as 24,222 hours. After further review of the collection, the annual burden hours are corrected to read as 25,647 hours. There are no other exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.