

SUPPORTING STATEMENT

A. Justification:

1. Explain in detail the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Provide a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.

The Middle Class Tax Relief and Job Creation Act of 2012¹ provides that “the Governor shall choose whether to participate in the deployment of the nationwide, interoperable broadband network as proposed by [FirstNet,] or conduct its own deployment of a radio access network in such State.”² If a Governor chooses not to participate in the network, Section 6302(e)(3)(A) of the Act requires the Governor to “notify [FirstNet], the NTIA, and the Commission of such decision.”³ The Act also states that an opt-out state “shall submit” to the Commission an “alternative plan” for “the construction, maintenance, operation, and improvements” of the RAN within the state. Section 3(C)(ii) of the Act mandates that “upon submission of this plan, the Commission shall approve or disapprove of the plan.”⁴

On June 22, 2017, the Federal Communications Commission (FCC the Commission) released a Report and Order (FCC 17-75) promulgating rules delineating how Governors can file their opt-out requests and how states can file alternative plans.

The Report and Order contains two information collection requirements. The first is the notification of the Governor’s decision to opt-out of the FirstNet network. The opt-out notification to the Commission must also include a certification that the state is providing simultaneous notice of its opt-out decision to both to NTIA and FirstNet. To facilitate the electronic filing of opt-out notifications, we will establish the e-mail address opt-out@fcc.gov as the dedicated address for this purpose.

The second is the submission of an alternative plan, which the Governor or the Governor’s duly authorized designee can do via e-mail to opt-out@fcc.gov or by certified mail.

The statutory authority for requiring licensees to submit this information enter into the written agreements described above is contained in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 §§ 6001-6303, 6413 (codified at 47 U.S.C. §§ 1401-1443, 1457)

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

¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 §§ 6001-6303, 6413 (codified at 47 U.S.C. §§ 1401-1443, 1457) (“Public Safety Spectrum Act” or “Act”).

² *Id.*, § 6302(e)(2).

³ *Id.*, § 6302(e)(3)(A).

⁴ *Id.*, § 6302(e)(3)(C)(ii) (emphasis added).

The Federal Communications Commission (Commission) requests Office of Management and Budget (OMB) approval under the “emergency processing” provision of the Paperwork Reduction Act (PRA) of 1995 (5 C.F.R. § 1320.13) for a new information collection. By granting approval of this new information collection, this will enable the Commission to meet our obligations under the Public Safety Spectrum Act.

2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information will be used by the Commission to determine whether a Governor intends to opt-out of FirstNet and whether a state’s proposed alternative to the FirstNet is interoperable with FirstNet.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical or other technological techniques or other forms of information technology, e.g., permitting electronic submissions of responses, and the basis for the decision for adopting this means of collection.

The Commission has created a stand-alone email address opt-out@fcc.gov for this purpose. Thus, states may use electronic means to submit the written consent.

4. Describe efforts to identify duplication.

The Middle Class Tax Relief and Job Creation Act of 2012 requires this information also be submitted NTIA and FirstNet.

5. If the collection of information will have significant economic impacts on small businesses, organizations or other small entities, describe any methods used to minimize the burden on these entities.

In conformance with the Paperwork Reduction Act of 1995, the Commission makes an effort to minimize the burden of information collection on all its licensees regardless of size. To that end, the information collections detailed in the Report and Order apply to the absolute minimum number of licensees necessary.

Given that only states and territories are subject to the Report and Order, the Commission will only seek information from a maximum of 55 entities, none of which are small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

If this collection is not conducted the Commission will be in violation of the Middle Class Tax Relief and Job Creation Act of 2012.

7. Explain any special circumstances that would cause an information collected in a manner inconsistent with OMB's guidelines which are stated in 5 C.F.R. § 1320.5(d)(2).

The information collections detailed in the Report and Order are consistent with the guidelines in 5 C.F.R. § 1320.5(d)(2).

8. Identify the date and page number of publication in the Federal Register of the agency's Paperwork Reduction Act (PRA) 60-day notice, required by 5 C.F.R. § 1320.8(d), soliciting comments on the information collection requirement(s) prior to submission to OMB.

The Commission initiated a 60-day public comment period which was published in the Federal Register on August 1, 2017 (82 FR 35778). No comments were received as a result of the Report and Order. A copy of the Federal Register Notice is referenced in this submission to the OMB.

9. Explain any decision to provide any payment or gift to respondents, other than the remuneration of contractors or grantees.

Public safety agencies subject to the information collections detailed in the Report and Order will not receive any gifts or payments.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Alternative state plans are very likely to contain proprietary information as well as information whose disclosure could compromise network security. Parties may therefore seek confidential treatment of any filing under our Part 0 rules, including the use of a protective order process to allow other those granted party status to the restricted proceeding access to the information on a confidential basis.

11. Provide additional justification for any questions of a sensitive nature.

The Commission is not requiring any licensee to submit sensitive information with the written concurrence described above.

12. Provide estimates of the burden hours for the collection of information.

55 states and territories are eligible to opt-out if FirstNet under these new procedures. We believe this is the total universe of entities who would be subject to the Report and Order.

Below, we estimate burden hours for the collections specified in the Report and Order.

We estimate a state or territory would need 0.25 hours to prepare the opt-out notification. We anticipate such request being a one-time filing. Assuming every eligible entity decided to opt-out, the burden hours for this one-time collection would be:

55 states and territories x 0.25 hours = 14 hours (rounded up).

We provide states and territories 60 days after it has completed its Request For Proposal (RFP) process to prepare the alternative plan. We anticipate such request being a one-time filing. Assuming every eligible entity decided to opt-out, and each entity assigned a single person full-time to the effort, the burden hours for this one-time collection would be:

55 states and territories x 8 hours x 60 days = 26,400 hours.

Total Respondents: 55

Total Responses: 110

Total Annual Burden Hours: 26,414 hours

Total In-House Cost: None.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. Do not include the cost of any burden hours shown in items 12 and 14.

There are no capital or start-up costs associated with the information collections detailed in the Report and Order. There are no operational or maintenance costs associated with information collections detailed in the Report and Order.

14. Provide estimates of annualized costs to the Federal government.

The Bureau's staff will only review the information collection documents described in its Public Notice if a non-Federal public safety agency decides to opt-out of FirstNet and submits an alternative plan. We estimate it will take staff 4.25 hours to review the notifications and alternative plans.

Assuming every eligible entity files a notification and alternative plan, we estimate the cost to Federal Government to be:

\$36.12 salary per hour (GS 11, Step 5/Electronics Engineer) 4.25 hours x 55 applications = \$8,443.05.

Total Cost to the Federal Government for One-Time Collection: \$8,443.05

15. Explain the reasons for any program changes or adjustments reported.

This is a new information collection resulting in a program change/increase of 55 respondents, 110 responses and 26,414 annual burden hours. These estimates will be added to OMB's Active Inventory.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The Commission will not publish any of the information collection document detailed in the Report and Order.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason that a display would be inappropriate.

The Commission is not requesting OMB approval to not display the OMB expiration date. The

Commission publishes a list of OMB-approved information collection by title, OMB Control number, and OMB expiration date in 47 CFR § 0.408.

18. Explain any exceptions to the statement certifying compliance with 5 CFR § 1320.9 and the related provisions of 5 CFR § 1320.8(b)(3).

There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

The Commission is not employing any statistical methods with regard to this information collection.