

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.

On January 18, 2023, the Commission released a Seventh Report and Order in WP Docket No. 07-100 which adds new Section 90.175(g)(2) to the Commission's rules requiring public safety applicants seeking to license new or modify existing facilities in the 4940-4990 MHz (4.9 GHz) band to obtain a frequency recommendation from the newly established nationwide Band Manager before the application is filed with the Commission. Applicants seeking to license facilities in the 4.9 GHz band will use FCC Form 601 which will be filed by the Band Manager into the Commission's Universal Licensing System (ULS) database.

Prior to the Seventh Report and Order, no public safety applicant needed to obtain a frequency recommendation from a certified frequency coordinator before obtaining a license to operate facilities in the 4.9 GHz band. Instead, public safety applicants were issued geographic area licenses encompassing the legal jurisdiction of the licensee and permitting operation on any channel over the entire 50 megahertz of the band. The geographic area license gave each licensee blanket authority to operate base stations and mobile units (including portables and handheld units) and/or temporary (one year or less) fixed stations anywhere within its authorized area. This licensing scheme meant that licenses often overlapped with one or more geographic area licenses covering a given location and authorizing operations on the same spectrum in the same area.

In the Seventh Report and Order, the Commission concluded it would collect more granular data on public safety deployments in the 4.9 GHz band in ULS and combine that data with a formal frequency coordination structure to improve interference mitigation efforts and bolster public safety confidence in the band. The Commission also established a new Band Manager for the 4.9 GHz band in the Seventh Report and Order who would be responsible for: (1) frequency coordination; (2) crafting recommendations for how best to incorporate the latest commercially available technologies into the band; and (3) facilitating non-public safety access.

Thus, per new Section 90.175(g)(2) of the Commission's rules, public safety entities seeking to license new or modify existing facilities in the 4.9 GHz band will submit their FCC Form 601 applications to the Band Manager to review before they are filed with the Commission. The Band Manager will perform an analysis to determine if the proposed operation would cause interference to incumbent licensees or previously filed applicants using the more granular data the Commission collects in ULS on public safety deployments. The Band Manager will recommend to public safety applicants during the frequency coordination process the most appropriate channel(s), bandwidth, operating power, area of operation (if mobile or temporary fixed operation is requested), or any other technical criteria which promotes robust use of the band while minimizing interference to incumbent licensees.

The Commission indicated in the Seventh Report and Order that public safety applicants may request the Commission overturn a frequency coordination recommendation from the Band Manager; however, any such applicant bears the burden of proof for demonstrating why the Commission should do so.

The Commission also seeks comment in a Ninth Further Notice in WP Docket No. 07-100 on an interference protection criteria for the Band Manager to apply during frequency coordination. Nonetheless, the Commission affords the Band Manager flexibility to approve applications which cause or receive more interference than provided for by the criteria the Commission eventually adopts for the band, if the application includes a concurrence letter from each incumbent (or existing applicant) that would receive higher levels of interference or a statement from the applicant accepting higher levels of interference.

The Commission noted in the Seventh Report and Order that, once the Band Manager is chosen and an interference protection criteria is adopted, all public safety applicants seeking to license new facilities or modify existing facilities in the 4.9 GHz band must include a showing of frequency coordination by the Band Manager on their FCC Form 601 application per new Section 90.175(g)(2).

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

The Commission is now submitting this new information collection to the Office of Management and Budget (OMB) to obtain the full three-year clearance.

Statutory authority for this information collection is contained in 47 U.S.C. §§ 154(i), 161, 303(g), 303(r), 332(c)(7), and 1401-1473 of the Communications Act of 1934 as amended.

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 Band Manager will review applications submitted to it by public safety entities seeking to license new or modify existing facilities in the 4.9 GHz band per new Section 90.175(g)(2) and recommend to the applicant the most appropriate channel(s), bandwidth, operating power, area of operation (if mobile or temporary fixed operation is requested), or any other technical criteria which promotes robust use of the band while minimizing interference to incumbent licensees.

Commission staff will review FCC Form 601 to confirm that each applicant seeking to license facilities in the 4.9 GHz band received the required frequency recommendation from the Band Manager.

As noted above, the purpose of this information collection is to ensure that public safety entities seeking to license new or modify existing facilities in the 4.9 GHz band cause no interference to incumbent licensees or previously filed applicants. Without the requirement for applicants to obtain a frequency recommendation from the Band Manager, incumbent public safety licensees would be subject to increased interference as applicants deployed new or modified facilities in the band.

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.

Once it completes its technical analysis, the Band Manager will indicate on FCC Form 601 that it made a frequency recommendation per new Section 90.175(g)(2) to each public safety applicant seeking to license new or modify existing facilities in the 4.9 GHz band. The Band Manager will then

electronically file into ULS all FCC Form 601 applications it receives once it completes its frequency recommendation to the applicant.

4. Describe efforts to identify duplication.

No other federal agency requires or collects the technical data described here.

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 applicants regardless of size. To that end, we minimize the burden on applicants who need to demonstrate that they obtained a frequency recommendation from the Band Manager per new Section 90.175(g)(2) of the Commission's rules by using Form 601 which includes a section for the Band Manager to indicate the date on which it made its recommendation to the applicant and a reference number for the recommendation.

Furthermore, we minimize the burden on applicants by having the Band Manager electronically file Form 601 into ULS on behalf of the applicant.

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.

A consequence of not requiring applicants to obtain a frequency recommendation from the Band Manager before they deploy new or modify existing facilities in the 4.9 GHz band is that incumbent public safety licensees would be subject to increased interference as applicants deploy new or modified facilities in the band.

As noted above, the Band Manager will review applications before they are filed with the Commission. The Band Manager will perform an analysis to determine if the proposed operation would cause interference to incumbent licensees or previously filed applicants using the more granular data the Commission collects in ULS on public safety deployments. Furthermore, the Band Manager will recommend to public safety applicants during the frequency coordination process the most appropriate channel(s), bandwidth, operating power, area of operation (if mobile or temporary fixed operation is requested), or any other technical criteria which promotes robust use of the band while minimizing interference to incumbent licensees.

Without a requirement for applicants to obtain a frequency recommendation from the Band Manager, applicants deploying new or modifying existing facilities in the band could cause interference to incumbent public safety licensee which are already operating in the band. Furthermore, the potential for interference creates uncertainty for public safety licensees who seek to rely on the 4.9 GHz band for critical safety of life communications.

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 collection required by new Section 90.175(g)(2) of the Commission's rules is 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 May 1, 2023 (88 FR 26542). No comments were received as a result of the Notice. 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 applicants needing to obtain a frequency recommendation from the Band Manager per new Section 90.175(g)(2) of the of the Commission's rules receive no gifts or payments.

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

The Commission does not require public safety applicants to include confidential information on Form 601 when they seek a frequency recommendation from the Band Manager per new Section 90.175(g)(2) of the Commission's rules.

Pursuant to § 208(b) of the E-Government Act of 2002, 44 U.S.C.A. § 3501, in conformance with the Privacy Act of 1974, 5 U.S.C. § 552(a), the Commission instructs applicants to use the FCC's ULS, ASR, Commission Registrations System (CORES) and related systems and subsystems to submit information.¹ CORES is used to receive an FCC Registration Number (FRN) and password, after which one must register all current call sign and Antenna Structure Registration (ASR) numbers associated with a FRN within the Commission's system of records (ULS database). Although ULS stores all information pertaining to the individual license via the FRN, confidential information is accessible only by persons or entities that hold the password for each account, and the Bureau's Licensing Division staff. By requesting an FRN, the individual applicant/licensee consents to make publicly available, via the ULS database, all information that is not confidential in nature.

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

The Commission does not require public safety applicants to include sensitive information on Form 601 when they seek a frequency recommendation from the Band Manager per new Section 90.175(g)(2) of the Commission's rules.

Nonetheless, in instances where licensees provide personally identifiable information (PII), the Commission has a System of Records Notice (SORN), FCC/WTB-1, and "Wireless Services Licensing Records," to cover the collection, use storage, and destruction of PII. A full explanation of the safeguards may be found in the Privacy Impact Assessment that the FCC completed on June 2, 2007 and that may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

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

¹ These instructions have been approved by the Office of Management and Budget (OMB) under Control Number 3060-1042.

Below we estimate the annual burden hours for public safety applicants to obtain a frequency recommendation from the Band Manager per new Section 90.175(g)(2) of the Commission's rules.

Section 90.175(g)(2) requires public safety applicants seeking to license new or modified facilities in the 4.9 GHz band to obtain a frequency recommendation from the Band Manager before the application is filed with the Commission. Applicants will use FCC Form 601 which the Band Manager will file on behalf of the applicant into ULS once the Band Manager completes its recommendation. Once an applicant submits its application to the Band Manager, we estimate it will take each applicant one hour to exchange information with the Band Manager in order to obtain the Band Manager's frequency recommendation. Between January 1, 2022 and December 31, 2022 the Commission granted a total of 213 applications by applicants seeking to license new or modify existing facilities in the 4.9 GHz band.

Using the numbers above, we now estimate the annual burden on applicants to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2).

Number of Respondents: 213 (applicants per year).

Total Number of Annual Responses: 1 submission per applicant x 213 applicants = 213 (submissions per year)

Frequency of Response: One submission per application.

Total Annual Burden Hours: 213 applications x 1 hour = 213 hours [for applicants to obtain a frequency recommendation from the Band Manager per Section 90. 175(g)(2)].

We now estimate the in-house costs to applicants of the information collection specified in Section 90.175(g)(2). We estimate that half of all applicants will use in-house staff at \$50 per hour in order to obtain the Band Manager's frequency recommendation per Section 90.175(g)(2). Therefore, we estimate an annual in-house cost to applicants as follows:

Annual In-house Cost: 213 hours x 0.5 x \$50/hour = \$5,325 [for applicants to obtain a frequency recommendation from the Band Manager per Section 90. 175(g)(2)].

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.

We now estimate outside costs for applicants to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2). In the Seventh Report and Order, the Commission stated that the Band Manager will be permitted to charge applicants reasonable rates for its coordination services, the way other frequency coordinators do today under Part 90.

In other frequency bands, a Part 90 frequency coordinator will charge an applicant \$210 per frequency pair/site combination on an application. If we estimate that the average applicant includes five frequency pair/site combinations, the cost of frequency coordination would be \$1,050 per application. Therefore, for each public safety applicant seeking to license new or modified facilities in the 4.9 GHz band, we estimate that the Band Manager will charge \$1,050 per application for a frequency recommendation per Section 90.175(g)(2).

We assume, as we did above, that the Commission receives a total of 213 applications per year from applicants seeking to license new or modify existing facilities in the 4.9 GHz band. Therefore, we estimate an annual outside cost to applicants for the Band Manager fee as follows:

Annual Outside Band Manager Fee Cost: 213 applications x \$1,050 Band Manager Fee = \$223,650 [for applicants to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2)].

Furthermore, as noted above, we estimate that half of all applicants will use outside consultants at \$100 per hour to exchange information with the Band Manager in order to obtain the Band Manager's frequency recommendation per Section 90.175(g)(2). Therefore, we estimate an annual outside consultant cost to applicants as follows:

Annual Outside Consultant Cost: 213 hours x 0.5 x \$100/hour = \$10,650 [for applicants to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2)].

The total annual outside costs for applicants to obtain a frequency recommendation from the Band Manager is as follows:

Total Annual Outside Cost: \$223,650 [for Band Manager fees] + \$10,650 [for outside consulting] = \$234,300 [for applicants to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2)].

There are no capital or start-up costs to public safety applicants who need to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2).

Total annual capital/start-up costs: None.
Total annualized costs (O&M): \$234,300
Total annualized cost requested: \$234,300

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

There is no annualized cost to the Commission resulting from the requirement for public safety applicants to obtain a frequency recommendation from the Band Manager per Section 90.175(g)(2) of the Commission's rules.

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

This is a new information collection resulting in a program change. There are increases in the total respondents of 213, total annual responses of 213, total annual burden hours of 213, and total annual cost of \$234,300 as a result of the information collection specified in 90.175(g)(2). 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 results from the information collected pursuant to 90.175(g)(2).

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. OMB control numbers and expiration dates for the Commission's information collection requirements assigned by OMB pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13 can be found at <https://www.reginfo.gov/public/do/PRAMain> See 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.