

SUPPORTING STATEMENT

**A. Justification:**

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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> Substantial service refers to service which is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal. A licensee is 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.<sup>4</sup> If a state licensee failed 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

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<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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).

<sup>4</sup> See OMB Control No. 3060-0798.

unavailable for reassignment to other applicants until the Commission's database reflects the parameters of the modified state license.

We anticipate the cost burden associated with Section 90.529 will be reduced as states have their final substantial service showings approved, but Commission staff is still reviewing the showings from 23 states. We anticipate the information collections in Section 90.529 will become obsolete once staff completes its review of those remaining 23 showings.

47 C.F.R. § 90.531 - Band plan.<sup>5</sup> 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. 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).

<sup>5</sup> 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).

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 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 § 1320.5(d)(2).
8. The Commission published a 60-day notice soliciting public comment which appeared in the Federal Register on February 15, 2024 (89 FR 11832) 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 granted 11 applications in 2023 seeking to license the 700 MHz interoperability channels. We estimate that 100% of these applicants requested State agency concurrence were filed electronically.

The time required for electronic filing is estimated to be 1 hour per transaction (1 hour) for a total annual burden of 11 hours annually:

$$1 \text{ hour} \times 11 = \mathbf{11 \text{ hours.}}$$

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 11 hours:

1 hour x 11 = **11 hours.**

**Total Number of Respondents: 11.**

**Total Number of Responses Annually: 11.**

**Total Annual Hourly Burden: 11 + 11 = 22 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 \$50 per hour to fulfill the requirements contained in this collection.

**Total Annual “In-House” Cost:** 22 burden hours x \$50 per hour = **\$1,100.**

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

As indicated above, Commission staff is still reviewing the substantial service showings from 23 states. We anticipate that each of these states will need to provide additional information related to their substantial service showing. We estimate that the time required for each state to gather the required information and upload it to their pending electronic filing to be 1 hour per transaction (1 hour) for an annual burden of 23 hours:

1 hour x 23 = **23 hours.**

**Total Number of Respondents: 23.**

**Total Number of Responses Annually: 23.**

**Total Annual Hourly Burden: 23 hours.**

We expect no further filings responsive to this provision once staff completes its review of the remaining 23 showings.

**“In-House Cost”:** The Commission estimates that state government personnel will be paid an

hourly rate of \$50 per hour to fulfill the requirements contained in this collection.

**Total Annual “In-House” Cost:** 23 burden hours x \$50 per hour = **\$1,150.**

c. 47 C.F.R. § 90.531 - Band Plan.

Based on a search of the Commission’s licensing database, staff granted 266 applications in 2023 seeking to license the General Use channels. We estimate that 100% of these applications were filed electronically and requested regional planning committee concurrence. In addition, three of the 266 applications staff granted were also licensed for Air-Ground channels. We estimate that 100% of these three applicants requested state concurrence for the 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 266 hours annually.

1 hour x 266 = **266 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 266 hours annually:

1 hour x 266 = 266 **hours.**

Air-Ground channels require state concurrence. 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 3 hours annually:

1 hour x 3 = **3 hours.**

**Total Number of Respondents: 266.**

**Total Number of Responses Annually: 266.**

**Total Annual Hourly Burden:** 266 + 266 + 3 = **535 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 paid an hourly rate of \$50 per hour to fulfill the requirements contained in this collection.

**Total Annual “In-House” Cost:** 535 burden hours x \$50 per hour = **\$26,750**

**Total Number of Respondents:** 11 (Section 90.525) + 23 (Section 90.529) + 266 (Section 90.531) = **300 Respondents.**

**Total Number of Annual Responses:** 11 (Section 90.525) + 23 (Section 90.529) + 266 (Section 90.531) = **300 Responses.**

**Total Combined Burden Hours:** 22 (Section 90.525) + 23 (Section 90.529) + 535 (Section 90.531) = **580 hours.**

**Total Combined “In-house” Cost:** \$1,100 (Section 90.525) + \$1,150 (Section 90.529) + \$26,750 (Section 90.531) = **\$29,000.**

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 11-5 at approximately \$44.94/hour x 1 hour x [11 (respondents per Section 90.525) + 266 (respondents per Section 90.531)] = \$12,448.38

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-11-5 at approximately \$44.94/ hour x 1 hour x 23 (respondents per Section 90.529) = \$1,033.62

Engineer GS-11-5 at approximately \$44.94/hour x 1 hour x 23 (respondents per Section 90.529)

= \$1,033.62

Total cost to the Federal Government is: \$2,067.24

Total Cost to the Federal Government: \$12,448.38 (for Sections 90.525 and 90.531) + \$2,067.24 (for Section 90.529) = **\$14,515.62.**

15. From the last submission to OMB, there are adjustments to this information collection. The total number of respondents and total annual responses decreased from 2,230 to 300 (-1,930) and the total annual burden hours decreased from 2,230 to 580 (-1,650). The decrease is due to fewer applications being filed seeking to license 700 MHz narrowband spectrum.

There are no program changes.

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. OMB approval of the expiration of the information collection will be displayed on OMB's website.

18. There are no exceptions to the Certification Statement

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.