

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 October 22, 2018, the Commission released a Report and Order which added new section 90.621(d)(4) to the Commission's rules requiring applicants to submit letters of concurrence with their application if the applicant would cause or receive contour overlap in the 809-817 MHz / 854-862 MHz segment of the 800 MHz band (800 MHz Mid-Band). The requirement for an applicant to submit a letter of concurrence if the applicant causes or receives contour overlap is a new information collection.

The 800 MHz Mid-Band is used for private land mobile radio (PLMR) services. PLMR services provide for the private, internal communications needs of public safety organizations, state and local government entities, large and small businesses, transportation providers, the medical community, and other diverse users of two-way radio systems. Prior to release of the Report and Order, PLMR licensees in the 800 MHz Mid-Band operated on 25 kilohertz bandwidth channels with 25 kilohertz separation between channels centers. In order to promote more efficient use of the 800 MHz Mid-Band, however, the Commission in its Report and Order introduced interstitial 12.5 kilohertz bandwidth channels between the existing 25 kilohertz channels.

The Commission concluded that new interstitial channels will benefit licensees in the 800 MHz Mid-Band only if appropriate interference safeguards are adopted. It concluded that contour overlap analysis was the best method for assessing the potential for interference in the 800 MHz Mid-Band once 12.5 kHz bandwidth interstitial channels are introduced. The purpose of the contour overlap analysis is to ensure an applicant causes no interference to or receives no interference from previously licensed incumbents once the applicant begins operating in the 800 MHz Mid-Band.

In particular, applicants are required to pass a forward and reciprocal contour analysis when seeking to license a channel in the 800 MHz Mid-Band once 12.5 kHz bandwidth channels become available for licensing. Under the forward analysis, the Commission will grant an application only if the applicant's proposed interference contour creates no overlap to the 40 dBu F(50,50) contour of an incumbent operating a fixed station on an upper or lower-adjacent channel. Under the reciprocal analysis, the Commission will grant an application only if the applicant's 40 dBu F(50,50) contour receives no overlap from the interference contour of an incumbent operating a fixed station on an upper- or lower-adjacent channel.

Nonetheless, per Section 90.621(d)(4), applicants may submit applications which do cause contour overlap under the forward analysis if the applicant includes with its application a letter of concurrence from each incumbent that receives contour overlap. In its letter of concurrence, the incumbent operator must agree to accept any interference that occurs as a result of the contour overlap. Furthermore, applicants may also file an application which does receive contour overlap under the reciprocal analysis if the applicant includes a letter of concurrence from each incumbent that causes contour overlap. In this case, the incumbent operator must state in its letter of concurrence that it does not object to the applicant receiving contour overlap from the incumbent's facility.

As noted above, the requirement in Section 90.621(d)(4) for an applicant to include a letter of concurrence with its application if the applicant causes contour overlap under the forward analysis or receives contour overlap under the reciprocal analysis is a new information collection.

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

The Commission is now extending this 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. §§ 151, 154, 301, 303, and 332 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.

Commission staff will use letters of concurrence to determine if an application which causes contour overlap under the forward analysis or receives contour overlap under the reciprocal analysis should be granted.

The purpose of requiring applicants to obtain letters of concurrence is to ensure incumbents in the 800 MHz Mid-Band are aware of the contour overlap before an application is granted. If concurrence letters were not required, incumbents could receive interference from or cause interference to applicants without the incumbent's knowledge and to the detriment of their, and other, users, many of whom are public safety first responders.

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.

Applicants are permitted to submit their letters of concurrence electronically through the Commission's Universal Licensing System (ULS) along with FCC Form 601 when they file an application for license.

4. Describe efforts to identify duplication.

No other federal agency requires or collects the documents described here. This agency does not impose a similar information collection on the respondents. There are no similar data available.

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 requirement for applicants to submit letters of concurrence under Section 90.621(d)(4) applies to the absolute minimum number of applicants necessary.

No applicant is required to file an application which causes contour overlap under the forward analysis or receives contour overlap under the reciprocal analysis. Only an applicant who chooses to file such an application is required to include letters of concurrence with its application.

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 allowing an applicant to file an application which causes or receives contour overlap without requiring the applicant to include letters of concurrence is that incumbent licensees would have no means of determining whether a new applicant would cause interference to, or receive interference from, their communications. Causing such interference is inconsistent with the Commission's programs and policies.

Therefore the requirement in Section 90.621(d)(4) for an applicant to include letters of concurrence with its application ensures that incumbent licensees are aware of the contour overlap and the potential for interference before Commission staff grants an application which causes contour overlap under the forward analysis or receives contour overlap under the reciprocal analysis.

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

The information collection required by Section 90.621(d)(4) is consistent with the guidelines in 5 CFR § 1320.5(d)(2). The Commission cannot identify any special circumstances that would cause the information collection to be inconsistent with OMB's guidelines.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR § 1320.8(d), soliciting comments on the information prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Commission published a notice in the Federal Register on September 12, 2024 (89 FR 74272) informing the public that the Commission will request an extension of this information collection by OMB and that the public may submit comments on the collection to the FCC. No comments were received in response to the 60-day notice.

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

Applicants submitting applications per Section 90.621(d)(4) 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 applicants to include confidential information when filing an application per Section 90.621(d)(4).

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 applicants to include sensitive information when filing applications per Section 90.621(d)(4).

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. The statement should: indicate the number of respondents, frequency of responses, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

Below we estimate the annual burden hours for applicants and incumbents to draft and sign the letters of concurrence required by Section 90.621(d)(4). As an initial matter, we estimate it will take each applicant one hour to prepare a letter of concurrence and each incumbent one hour to review, approve and sign a letter of concurrence. We can estimate the annual burden if we assume one-third of all 800 MHz Mid-Band applications require a single letter of concurrence.

According to the FCC's Universal Licensing System (ULS), the Commission granted 532 PLMR applications seeking new or modified facilities in the 800 MHz band between January 1, 2024 and July 31, 2024. Assuming the rate of applications remains constant for the entire year, the Commission can expect to grant approximately 912 PLMR applications in 2024 for new or modified facilities in the 800 MHz band.

The 800 MHz Mid-Band encompasses approximately seventy-three percent of the spectrum available in the 800 MHz band for site-based licensing. Assuming an even distribution of applications throughout the band, the Commission can expect to grant approximately 684 PLMR applications in 2024 for 800 MHz Mid-Band spectrum.

As noted above, if we assume one-third of all 800 MHz Mid-Band applications require one letter of concurrence, we estimate the number of letters of concurrence filed in a year per Section 90.621(d)(4) to be:

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

684 800 MHz Mid-Band Applications x 1/3 (Needing a Letter of Concurrence) = 228 Applications Requiring One Letter of Concurrence Per Year

We now estimate the annual burden on applicants.

Number of Respondents: 228 (applicants).

Total Number of Annual Responses: 1 letter x 228 applicants = 228 (letters of concurrence)

Frequency of Response: One-time letter per application.

Total Annual Burden Hours: 228 letters of concurrence x 1 hour = 228 hours (for applicants to prepare letters of concurrence).

We now estimate the annual burden on incumbents.

Number of Respondents: 228 (incumbents).

Total Number of Annual Responses: 1 letter x 228 incumbents = 228 (letters of concurrence).

Frequency of Response: One-time letter per application.

Total Annual Burden Hours: 228 letters of concurrence x 1 hour = 228 hours (for incumbents to review, approve and sign letters of concurrence).

For this estimate, we assume an hourly rate of \$40/hour for an applicant's in-house staff to prepare letters of concurrence per Section 90.621(d)(4).

Annual In-house Cost: 228 hours x \$40/hour = \$9,120 (for applicants)

For this estimate, we assume an hourly rate of \$40/hour for an incumbent's in-house staff to review, approve and sign a letter of concurrence per Section 90.621(d)(4).

Annual In-house Cost: 228 hours x \$40/hour = \$9,120 (for incumbents)

Total Respondents and Responses: 456 respondents (applicants and incumbents) and 228 responses (applicants and incumbents submit a joint letter).

Total Annual Burden Hours: 456 hours (applicants and incumbents)

Total Annual "In-house" Cost to Respondents: \$18,240 (applicants and incumbents)

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 outside costs because both applicants and incumbents will use in-house staff to fulfill the requirement

Total annual capital/start-up costs: None.

Total annualized costs (O&M): None.

Total annualized cost requested: None.

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expenses that would not have been incurred without this collection of information.

Commission staff will review applications which cause contour overlap under the forward analysis or receive contour overlap under the reciprocal analysis to determine if the applicant included the proper letters of concurrence. We estimate it will take staff 0.5 hours to review letters of concurrence attached to an application. Assuming staff receives 228 applications annually which include one letter of concurrence per Section 90.621(d)(4), we estimate the annual cost to the federal government to be:

\$44.94 salary per hour (GS 11, Step 5/Electronics Engineer) x 0.5 hours x 228 letters of concurrence = \$5,123

Total Cost to the Federal Government: \$5,123

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

There is an adjustment to the total annual burden hours (-276 hours) for this information collection based on a decrease in the number of applications (-138 responses) received in 2024.

There are no program changes.

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 Section 90.621(d)(4).

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

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.