



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0430; FRS 17071]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of

your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the

proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060-0430.

Title: Section 1.1206, Permit-but-Disclose Proceedings.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

Number of Respondent and Responses: 11,500 respondents; 34,500 responses.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain benefits. Statutory authority for this collection of information is contained in sections 4(i) and (j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 303(r), and 409.

Estimated Time per Response: 45 minutes (0.75 hours).

Total Annual Burden: 25,875 hours.

Total Annual Costs: No cost.

Nature and Extent of Confidentiality: Consistent with the Commission's rules on confidential treatment of submissions, under 47 CFR 0.459, a presenter may request confidential treatment of *ex parte* presentations. In addition, the Commission will permit parties to remove metadata containing confidential or privileged information, and the Commission will also not require parties to file electronically *ex parte* notices that contain confidential information. The Commission will, however, require a redacted version to be filed electronically at the same time the paper filing is submitted, and that the redacted version must be machine-readable whenever technically possible.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission's rules, under 47 CFR 1.1206, require that a public record be made of *ex parte* presentations (*i.e.*, written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in “permit-but-disclose” proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings.

On February 2, 2011, the FCC released a *Report and Order and Further Notice of Proposed Rulemaking*, GC Docket Number 10-43, FCC 11-11, which amended and reformed the Commission's rules on *ex parte* presentations (47 CFR 1.1206(b)(2)) made in the course of Commission rulemakings and other permit-but-disclose proceedings. The modifications to the existing rules adopted in this Report and Order require that parties file more descriptive summaries of their *ex parte* contacts, by ensuring that other parties and the public have an adequate opportunity to review and respond to information submitted *ex parte*, and by improving

the FCC's oversight and enforcement of the *ex parte* rules. The modified *ex parte* rules which contain information collection requirements which OMB approved on December 6, 2011, are as follows: (1) *Ex parte* notices will be required for all oral *ex parte* presentations in permit-but-disclose proceedings, not just for those presentations that involve new information or arguments not already in the record; (2) If an oral *ex parte* presentation is limited to material already in the written record, the notice must contain either a succinct summary of the matters discussed or a citation to the page or paragraph number in the party's written submission(s) where the matters discussed can be found; (3) Notices for all *ex parte* presentations must include the name of the person(s) who made the *ex parte* presentation as well as a list of all persons attending or otherwise participating in the meeting at which the presentation was made; (4) Notices of *ex parte* presentations made outside the Sunshine period must be filed within two business days of the presentation; (5) The Sunshine period will begin on the day (including business days, weekends, and holidays) after issuance of the Sunshine notice, rather than when the Sunshine Agenda is issued (as the current rules provide); (6) If an *ex parte* presentation is made on the day the Sunshine notice is released, an *ex parte* notice must be submitted by the next business day, and any reply would be due by the following business day. If a permissible *ex parte* presentation is made during the Sunshine period (under an exception to the Sunshine period prohibition), the *ex parte* notice is due by the end of the same day on which the presentation was made, and any reply would need to be filed by the next business day. Any reply must be in writing and limited to the issues raised in the *ex parte* notice to which the reply is directed; (7) Commissioners and agency staff may continue to request *ex parte* presentations during the Sunshine period, but these presentations should be limited to the specific information required by the Commission; (8) *Ex parte* notices must be submitted electronically in machine-readable format. PDF images created

by scanning a paper document may not be submitted, except in cases in which a word-processing version of the document is not available. Confidential information may continue to be submitted by paper filing, but a redacted version must be filed electronically at the same time the paper filing is submitted. An exception to the electronic filing requirement will be made in cases in which the filing party claims hardship. The basis for the hardship claim must be substantiated in the *ex parte* filing; (9) To facilitate stricter enforcement of the *ex parte* rules, the Enforcement Bureau is authorized to levy forfeitures for *ex parte* rule violations; (10) Copies of electronically filed *ex parte* notices must also be sent electronically to all staff and Commissioners present at the *ex parte* meeting so as to enable them to review the notices for accuracy and completeness. Filers may be asked to submit corrections or further information as necessary for compliance with the rules; and (11) Parties making permissible *ex parte* presentations in restricted proceedings must conform and clarify rule changes when filing an *ex parte* notice with the Commission.

The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making.

The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,

Secretary.

Office of the Secretary

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