

SUPPORTING STATEMENT

A. Justification:

1. The Commission is revising this information to consolidate five information collections with five different OMB Control Numbers into one comprehensive collection (OMB Control Numbers 3060-1022 through 3060-1026). Upon OMB approval, the Commission will eliminate four ICs (OMB Control Numbers 3060-1023 through 3060-1026) and retain 3060-1022 as the active number for the OMB inventory.

The Commission is not changing any of the reporting, recordkeeping or third party disclosure requirements. We are simply modifying this IC to include the other four other ICs as mentioned above. The following is a description of each rule section requirement:

a. **Section 101.1403** requires certain Multichannel Video Distribution and Data Service (MVDDS) licensees to comply with the statutory broadcast carriage requirements of 47 U.S.C § 325(b)(1). Relevant to the Paperwork Reduction Act, these MVDDS licensees must obtain the prior express authority of a broadcast station before retransmitting that station's signal.

Section 101.1403 requires MVDDS respondents that meets the statutory definition of Multichannel Video Programming Distributor (MVPD) to comply with the broadcast carriage requirements located 47 U.S.C § 325(b)(1). Any MVDDS licensee that is an MVPD must obtain the prior express authority of a broadcast station before retransmitting that station's signal, subject to the exceptions contained in § 325(b)(2) of the Communications Act of 1934. *(Formerly approved under OMB Control Number 3060-1022.)*

b. **Section 101.103(f)** requires MVDDS licensees to provide notice of intent of construct a proposed antenna to Non-Geostationary Satellite Orbit Fixed Satellite Service (NGS) FSS licensees operating in the 12.2-12.7 GHz frequency band and to establish and maintain an Internet web site of all existing transmitting sites and transmitting antenna that are scheduled for operation within one year including the "in service" dates.

The Commission revised this IC on July 7, 2003, in a Third Report and Order (3rd R&O) in ET Docket No. 98-206 (FCC 03-152) that decreased the number of MVDDS license areas from 354 Component Economic Areas (CEAs) to 214 license areas (210 Designated Market Areas (DMAs) and four FCC-defined areas).¹ However, we increased the total annual burden hours to 1177 (from 177) to reflect the previously

¹ Designated Market Area (DMA®) is a registered trademark of Nielsen Media Research, Inc. (Nielsen Media). An MVDDS license does not confer any right to use the DMA trademark or any associated maps, ranks, regions, data, or analyses owned by Nielsen Media, and that right must be sought from Nielsen Media.

approved requirement to establish and update an Internet site. *(Formerly approved under OMB Control Number 3060-1023.)*

c. **Section 101.1413** requires Multichannel Video Distribution and Data Service (MVDDS) licensees to file a showing of substantial service. OMB has approved the requirement to file this showing at ten years (the end of the initial license term:

The Commission revised this IC on July 7, 2003, in a *Third Report and Order* (3rd R&O) in ET Docket No. 98-206 (FCC 03-152) that amended Section 101.1413 to add a requirement to file a showing of substantial service at five years into the initial license term.

Section 101.1413 requires MVDDS licensees to file a showing of substantial service at five and ten years into the initial license term. The substantial service requirement is defined as a “service that is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal”. The renewal application of an MVDDS licensee must include the following showings in order to claim a renewal expectancy:

- (1) A coverage map depicting the served and unserved areas;
- (2) a corresponding description of current service in terms of geographic coverage and population served or transmitter locations in the served areas; and
- (3) copies of any Commission Orders finding the licensee to have violated the Communications Act or any Commission rule or policy and a list of any pending proceedings that relate to any matter described by the requirements for the renewal expectancy. *(Formerly approved under OMB Control Number 3060-1024.)*

d. **Section 101.1440** requires Multichannel Video Distribution and Data Service (MVDDS) licensees to collect information and disclose information to third parties.

Section 101.1440 requires MVDDS licensees to conduct a survey of the area around its proposed transmitting antenna site to determine the location of all Direct Broadcast Satellite (DBS) customers of record that may potentially be affected by the introduction of its MVDDS service. At least 90 days prior to the planned date of MVDDS commencement of operations, the MVDDS licensee must then provide specific information to the DBS licensee(s). Alternatively, MVDDS licensees may obtain a signed, written agreement from DBS customers of record stating that they are aware of and agree to their DBS system receiving MVDDS signal levels in excess of the appropriate Equivalent Power Flux Density (EPFD) limits. The DBS licensee must thereafter provide the MVDDS licensee with a list of only those new DBS customer locations that have been installed in the 30-day period following the MVDDS notification that the DBS licensee believes may receive harmful interference or where the prescribed EPFD limits may be exceeded. If the MVDDS licensee determines that its signal level will exceed the EPFD limit at any DBS customer site, it shall take whatever steps are necessary, up to and including finding a new transmitter site. *(Formerly approved under OMB Control Number 3060-1025.)*

e. **Section 101.1417** requires Multichannel Video Distribution and Data Service (MVDDS) licensees to file an annual report.

Section 101.1417 requires MVDDS licensees to file with the Commission two copies of a “licensee information report” by March 1st of each year for the preceding calendar year. This “licensee information report” must include name and address of licensee; station(s) call letters and primary geographic service area(s); and statistical data for the licensee's station. *(Formerly approved under OMB Control Number 3060-1026.)*

As noted on the OMB Form 83i, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this information collection is contained in 47 U.S.C. §§ 154(i), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j).

2. The Commission uses the information in the following manner:

- Section 101.1403 – MVDDS licensees that meet the broadcast carriage requirements of 47 U.S.C. § 325(b)(1) are required to send a letter to broadcast stations directly (or otherwise obtain the prior, express authority of a broadcast station before transmitting that station’s signal;
- Section 101.103(f) – The Commission’s licensees will use the required notice and information to ensure that prior to operation the MVDDS antennas meet the minimum spacing requirement;
- Section 101.1413 – The Commission uses the information to determine whether a licensee is providing substantial service, as required, and for whether to apply a renewal expectancy;
- Section 101.1440 – The information collected and disclosed by this rule section will ensure that MVDDS licensees protect DBS customers of record from interference as required by the Commission’s rules; and
- Section 101.1417 – The reporting requirement is necessary for the Commission to keep track of the MVDDS service. The information compiled in the annual report will assist the Commission in analyzing trends and competition in the marketplace.

3. Prior to finalizing rule makings the FCC conducts an analysis to insure that improved information technology cannot be used to reduce the burden on the public. This analysis considers the possibility of obtaining and/or computer-generating the required data from existing data bases in the Commission or other federal agencies.

4. No other federal agency collects this data.

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 that absolutely necessary to deter against possible abuses.

6. The third party disclosure and reporting requirements for Section 101.1403 is purely based on the need for MVDDS licensees to meet the statutory definition of MVPD to comply with the broadcast carriage requirements of 47 U.S.C. 325(b)(1).

The third party disclosure and notification requirements in Sections 101.103(f), is required to ensure coordination is needed to avoid interference between MVDDS licensees and NGSO FSS licensees in the 12.2 GHz to 12.7 GHz band. The notification and disclosure-sharing requirements are necessary to ensure that no harmful interference occurs. Accordingly, there is no way to require notification or disclosure-sharing less frequently.

Section 101.1413 requires MVDDS licensees to file a showing of substantial service at five and ten-years into the initial license term. The FCC needs this information to determine whether a licensee is providing substantial service at five and ten years into the initial license term, as required, and for whether to apply a renewal expectancy. There is no way for the Commission to require less frequent reporting of this information and continue to maintain its regulatory duties.

Section 101.1440 contains information collection and third party disclosure requirements only when a MVDDS licensee intends to erect a transmitting antenna to ascertain whether DBS customers in the vicinity will experience interference with their DBS services following the introduction of MVDDS service signals. Without this requirement, there is the potential for MVDDS licensees to cause DBS customer service disruptions. Accordingly, the Commission cannot devise a way to require the information less frequently.

Section 101.1417 states that it is important that the MVDDS station licensees provide the data contained in the licensee information report at least annually to the FCC to enable the Commission to keep abreast of the various activities carried out by these licensees. Reporting the information less frequently would hinder the Commission's spectrum management and enforcement duties.

7. Current data collection is consistent with the guidelines in 5 CFR Section 1320.6.

8. We published a notice in the *Federal Register* on July 17, 2008 (73 FR 41078) as required by 5 CFR Section 1320.8. No comments were received. A copy of the notice is referenced in this submission to the OMB.

9. Respondents will not receive any payments.

10. There is no need for confidentiality.

11. This does not address any private matters of a sensitive nature.

12. **Respondent Burden Hours:**

Please see the chart below for the number of respondents, frequency of response, time per response, total annual burden hours. Our explanation of the estimates for each item follows the chart.

¹² .	Rule Sections	Number of Respondents	Frequency of Response	Time per Response (Hours)	Total Annual Burden Hours
a.	Section 101.1403 (3060-1022)	214	1 (On occasion)	1	214
b.	Section 101.103 (3060-1023)	214	1 (On occasion)	.05 – 5	107 + 1,070 = 1,177
c.	Section 101.1413 (3060-1024)	214	1 (On occasion)	0.5	107
d.	Section 101.1440 (3060-1025)	214 3	1 (On occasion)	40 25	8,560 + 75 8,635
e.	Section 101.1417 (3060-1026)	214	1 (Annually)	1	214
	TOTAL	217			10,347

- a. The estimated time for a letter for consent is 1 hour per respondent (214 x 1 hour = 214 hours).
- b. The estimated time to complete a letter for consent is .5 hours per response; the estimated time to establish and update the Internet site is 5 hours (214 x .5 and 5 hours is 1,177 hours).
- c. The estimated time to prepare the showings of substantial service (that are filed at the end of five and ten years into the license term is .5 hours per (214 x .5 hours = 107 hours). We estimate that 75% will use internal staff and 25% will use outside consultants to comply with the requirements of this rule section.
- d. 214 MVDDS licensees x 40 hours = 8,560 hours; 3 DBS licensees x 25 hours = 75 hours. We estimate 214 licensees will take 40 hours to conduct a survey of the area around its proposed transmitting antenna site to determine the location of all DBS customers that may be affected by the introduction of MVDDS service. We estimate up to 3 DBS licensees taking 25 hours per year to provide responsive data to MVDDS licensees. There is one MVDDS licensee per license area. 8,560 + 75 hours = 8,635 total hours.
- e. 214 licensees x 1 hour to prepare annual report = 214 total hours.

13. Cost to the respondents:

c. For Section 101.1413, we estimate that 25% of 214 respondents (53) will use an outside consultant to prepare the showing of substantial service (that are filed at the end of five and ten years into the license term) which calculates to 53 attorney consultants x .5 hours for document preparation x \$200 per hour = **\$5,300**.

14. Estimate of cost to Federal Government: Most of the requirements are third party disclosure or notification requirements and/or data collection requirements performed by the licensees and provided to other licensees. Therefore, there is no cost to the Federal government.

15. There is a change in burden because the Commission is consolidating five ICs into one comprehensive collection. Therefore, the burden has been adjusted to +3 respondents (adding 3 DBS licensees to this revised IC); +10,133 burden hours (which totals all five ICs together) and +\$5,300 in annual cost (from OMB control number 3060-1024).

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.

18. There are no exceptions to Item 19 in the Certification Statement on the Form OMB 83i.

B. Collection of Information Employing Statistical Methods:

No statistical methods are employed.