

## SUPPORTING STATEMENT

### **A. Justification:**

1. The Commission seeks Office of Management and Budget (OMB) approval to extend this information collection (IC) for the 70-80-90 GHz service, specifically Section 101.1523, Sharing and Coordination Among Non-government Licensees and Between Non-Government and Government Services (Allocation and Service Rules for the 70-80-90 GHz Bands) in order to obtain the full three year clearance. There is no change to the reporting, recordkeeping and/or third-party disclosure requirements. By this action, the Commission will promote the private sector development and use of 71-76 GHz, 81-86 GHz, and 92-95 GHz bands.

Section 101.1523 requires registration of each link in the 71-76 GHz, 81-86 GHz, and 92-95 GHz bands. Registration will be completed in the Commission's Universal Licensing System (ULS) until the Wireless Telecommunications Bureau announces by public notice the implementation of a third-party database. The licensee or applicant shall:

- 1) Complete coordination with Federal Government links according to the coordination standards and procedures adopted in Report and Order, FCC 03-248, and as further detailed in subsequent implementation public notices issued consistent with that order;
- 2) Provide an electronic copy of an interference analysis to the third-party database manager which demonstrates that the potential for harmful interference to or from all previously registered non-government links has been analyzed according to the standards of 47 CFR 101.105 and generally accepted good engineering practice, and that the proposed non-government link will neither cause harmful interference to, nor receive harmful interference from, any previously registered non-government link; and
- 3) Provide upon request any information related to the interference analysis and the corresponding link. The third-party database managers shall receive and retain the interference analyses electronically and make them available to the public. Protection of individual links against harmful interference from other links shall be granted to first-in-time registered links. Successful completion of coordination via the National Telecommunications and Information Administration (NTIA) automated mechanism shall constitute successful non-Federal Government to Federal Government coordination for that individual link.

In addition, the following types of non-Federal Government links require the filing with the Commission a FCC Form 601 for each link for the purpose of coordination and registration, in addition to registering each link in the third-party database:

- 1) Facilities requiring the submission of an Environmental Assessment;

- 2) Facilities requiring international coordination; and
- 3) Operation in quiet zones.

The Commission believes the licensee is in the best position to determine the nature of its operations and whether those operations impact these settings, and is required to submit to a database manager, as part of the registration package, documentation that a FCC Form 601 has been filed.

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

Statutory authority for this collection of information is contained in 47 U.S.C. sections 151, 154(i), 303(f) and (r), 309, 316, and 332 of the Communications Act of 1934, as amended.

2. The recordkeeping, reporting, and third party disclosure requirements will be used by the Commission to verify licensee compliance with Commission rules and regulations, and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934. Such information has been used in the past and will continue to be used to minimize interference, verify that applicants are legally and technically qualified to hold licenses, and to determine compliance with Commission rules.

3. Before finalizing rulemakings, the Wireless Telecommunications Bureau conducts an analysis to ensure that improved information technology can 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.

Database managers (DMs) will have to make data available to the Commission, NTIA, and licensees electronically. Licensees will have to submit information to a database manager in whatever format the DM requires. Although the Commission's Memorandum of Understanding (MOU) with DMs might specify formats that DMs have to accept, licensee submissions to the Commission are covered under ULS (OMB Control No. 3060-0798).

The interference analysis requirement requires licensees to provide an electronic copy of an interference analysis to the third-party database manager which demonstrates that the potential for harmful interference to or from all previously registered non-government links has been analyzed according to the standards of Section 101.105 and generally accepted good engineering practice, and that the proposed non-government link will neither cause harmful interference to, nor receive harmful interference from, any previously registered non-government link. Licensees are also required to provide upon request any information related to the interference analysis and the corresponding link.

The third-party database managers shall receive and retain the interference analyses electronically and make them available to the public. Additionally, DMs and

licensees will have to submit information to NTIA electronically via NTIA's own automated mechanism.

4. The Commission does not impose a similar information collection on respondents and no similar data is available duplicated elsewhere.

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 licensee compliance with Commission rules and to deter against possible abuses of the processes. The Commission will continue to examine alternatives in the future with the objective of eliminating unnecessary regulations and minimizing burdens on small businesses. Small businesses seeking authority to operate links at 70-80-90 GHz will have to apply for a nationwide license and register each link. The burdens are minimal and the database registration process itself minimizes the burden on all licensees, including small businesses.

In choosing among the various alternatives in the 2005 reconsideration (Memorandum Opinion and Order or MO&O), the Commission sought to minimize the adverse economic impact on small entities. In revising Section 101.1523 of our rules, we decided that the purpose of the interference-analysis requirement would not be met by having licensees certify compliance, rather than submitting the analysis to the third-party database manager. In adopting the interference-analysis requirements, we considered the costs and benefits of imposing an interference analysis requirement, particularly for small entities, and concluded that the costs of performing such analyses would be relatively small, particularly when compared to the benefits of preventing harmful interference to existing operations for all licensees. We also find it important to facilitate entry and development of this industry by lowering the risk of interference and thereby ensuring continued investment. Finally, we find that the additional assurance of no harmful interference provided by interference analyses in these bands will better serve the public interest.

6. Reporting burdens required for the 71-76 GHz, 81-86 GHz and 92-95 GHz bands, first adopted in the 2003 Report and Order (R&O) correspond to burdens placed on other wireless licensees. Some of the proposed burdens would only apply if certain situations arise, such as interference. If the information required in these collections were not maintained, important licensing data would not be available when needed by the Commission, other licensees, or the public. In addition, without these reporting requirements, it would be difficult for the Commission to ensure compliance. If the FCC did not or could not sponsor third-party disclosure and recordkeeping requirement, it would have to use the existing ULS process to collect the information on Schedule M of Form 601. (OMB approved the PRA submission for Schedule M on April 16, 2004, OMB Control No. 3060-0798). The interference analysis requirement added by the 2005 MO&O is necessary to ensure that the proposed non-government link will neither cause harmful interference to, nor receive harmful interference from, any previously registered non-government link. In addition, the collection furthers the Commission's goal of facilitating entry and development of this industry by lowering the risk of interference and thereby ensuring continued investment. In this regard, the Commission found that

the additional assurance of no harmful interference provided by interference analyses in these bands better serves the public interest.

7. There is a recordkeeping requirement by third party database managers (DMs). Under the rules adopted in the 2003 *R&O*, licensees must provide database managers information regarding each link, *e.g.*, the same technical information required on Schedule M. Occasionally, licensees must provide DMs with information on the operational status of one or more links. Licensees also must inform the DM when filing FCC Form 601 with the FCC for certain links that require special processing, *e.g.*, environmental concerns, international or Federal coordination. Additionally, licensees must also retain correspondence to and from a DM. The DMs will be responsible for keeping the history for all registered links so long as they are designated as a DM (the initial period of designation will be for five (5) years). Under the rule revisions made in the 2005 *MO&O*, licensees must submit an electronic copy of an interference analysis to the third-party database manager which demonstrates that the potential for harmful interference to or from all previously registered non-government links has been analyzed according to the standards of Section 101.105 and generally accepted good engineering practice, and that the proposed non-government link will neither cause harmful interference to, nor receive harmful interference from, any previously registered non-government link. Licensees are also required to provide upon request any information related to the interference analysis and the corresponding link. The third-party database managers shall receive and retain the interference analyses electronically and make them available to the public.

8. The Commission published a notice in the *Federal Register* on August 8, 2008 (73 FR 46270), initiating a 60-day public comment period. The comment period ended on October 7, 2008. No comments were received from the public. A copy of the Notice is referenced in this submission to the OMB.

9. Respondents will not receive any payments or gifts.

10. There is no need for confidentiality. The Commission has not granted assurances of confidentiality to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment and the Commission will afford such confidentiality for 20 days, after which the information will be available to the public.

11. There are no questions of a sensitive nature.

12. We are adjusting the estimates based on our experience with this new radio service. The Commission predicts that there could be 1,000 applicants for licenses in this spectrum. The actual number of applicants that may partake in this Millimeter Wave spectrum is unknown at this time. For applicants, we estimate the additional burden of obtaining and providing an electronic copy of an interference analysis to the third-party

database manager<sup>1</sup> to be 0.5 hour per registration. For database managers, we estimate an additional 1.5 hour burden per registration.

The following represents our best high estimate concerning the final rules:

To date, approximately 60 nationwide licensees have registered approximately 250 links with a DM. Over the next three years, we estimate that there could be a total of 100 nationwide licensees registering a total of approximately 1,150 links (+300 annually). For convenience, we are distributing this burden equally among all respondents by assuming that each licensee will register three links per year.

It would take each licensee approximately 4.5 hours to complete the registration process for three links per year (4.5 hrs. x 3 registrations) and we are estimating 100 licensees. **4.5 hrs. x 100 licensees = 450 hours (previously 1,500 hours).** This is an adjustment of the previously submitted estimate of -1,050 hours.

The three (3) third-party database managers (DMs) will maintain databases, interface with other DMs, the FCC and NTIA, and electronically receive, retain, and make available to the public registration data, including the interference analyses. For the DMs, we estimate 3.5 burden hours for each of 300 registrations per year. For convenience, we are distributing this burden equally among the three respondents by assuming that each DM will register 100 links per year.

**3.5 hrs. x 100 registrations = 350 hrs. x 3 DMs = 1,050 burden hours (previously submitted estimate of 10,500 burden hours).**

**Total Annual Burden Hours: 450 + 1,050 = 1,500 (previously submitted estimate of 12,000 total annual burden hours).** This is an adjustment of -10,500 hours.

### **13. Summary of Respondent Costs:**

The Commission has designated three DMs and we previously estimated that each of these DMs would incur total annualized capital/startup costs of \$1,830,000. Given that these three DMs have been operating for three years, we do not estimate any additional annualized startup costs for these three DMs. Though unlikely, the Commission could designate an additional DM during the next three years, in which case that entity would incur annualized capital/start up costs. Accordingly, we are adjusting our estimate for the next three years to reflect total annualized capital/startup costs for one (possible) entity. We anticipate annual cost associated with database management which we believe may include database management and personnel to be approximately \$510,000.00 per year for a new DM.

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<sup>1</sup> As noted in the *MO&O*, the database managers are not precluded from offering additional services and licensees are under no obligation to use the third-party database manager's services. Licensees are free to conduct their own interference analyses or to procure the interference analyses from a third party source or the database managers, provided the analyses meet generally accepted good engineering practice and the interference protection standards of Section 101.105. However, we anticipate and assume here that most licensees will utilize the interference analysis services provided by database managers as part of the registration process.

**Total Annualized capital/startup costs: \$510,000.**

Additionally, we anticipate other costs associated with database management which we believe may include database management, hardware and personnel to be approximately \$100,000 per year for each of the three existing database managers.

**Annual operation and maintenance cost: \$100,000.00 x 3 = \$300,000.**

**Total Annual Cost Burden: \$510,000 + \$300,000 = \$810,000 (previously submitted estimate of \$1,830,000 total annual cost burden).**

14. FCC maintains Memorandums of Understanding signed by DMs, as well as, correspondence to and from DMs or to and from licensees that, for example, bring interference or other complaints to the FCC. FCC may maintain electronic or hardcopy "backups" or reference copies of some or all registration data.

Based on our experience during the first three years of administering this new service, the Commission anticipates receiving approximately 10 complaints annually which is slightly less than 1% of the assumed total of 1,150 registrations and our estimate that a complaint could be based on a new or an existing registration. The Commission estimates are as follows:

One GS 15-5 engineer working for 8 hours x 10 complaints = **80 burden hours**

One GS 14-5 attorney working for 8 hours x 10 complaints = **80 burden hours**

One GS 12-5 analyst working for 2 hours per complaint = **20 burden hours**

Total Burden Hours to the Federal Government = **180 hours annually.**

The estimate of annualized cost to the Commission is as follows:

One GS-14-5 engineer @ \$44.04 per hour x 80 hours = **\$3,523**

One GS 14-5 attorney @ \$44.04 per hour x 80 hours = **\$3,523**

One GS 12-5 analyst @ \$31.34 per hour x 20 hours = **\$627**

Total Burden Costs to the Federal Government = **\$7,673.**

15. We are adjusting the annual burden hours to -10,500. This adjustment reflects revised estimates based on our experience to date. In 2005, the Commission estimated 1,000 respondents/responses. With this submission we are reporting a decrease of 900 respondents resulting in a decrease of -10,500 burden hours and -\$1,020,000 in annual costs due to the reduction of one-time capital/startup costs. (See item 13 of this supporting statement.)

16. The data will not be published for statistical use.
17. We do not seek approval to display the expiration date for OMB approval of the information collection. A list of all OMB-approved information collections are displayed in 47 CFR 0.408 of the Commission's rules.
18. The total annual burden hour estimates that appeared in the 60-day Notice (73 FR 46270) that was published on August 8, 2008, were inaccurate. With this submission and publication of a 30-day notice in the *Federal Register*, we are reporting more accurate estimates.

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

This information collection does not use any statistical methods.