

SUPPORTING STATEMENT

A. Justification:

With the completion of the Digital Television (DTV) transition, all full-power television stations that were operating in the 700 MHz Band (698-806 MHz) have transitioned out of the band, making it available for use by public safety entities such as police, fire, and emergency services, as well as by commercial licensees such as wireless broadband providers. Wireless microphones and other devices are certified as low power auxiliary stations (“wireless microphones”), and a number of them are operating in the 700 MHz Band. Although some of the operators of these devices are licensed under Part 74 of the Commission’s rules, most are not eligible for a Commission license and are operating on an unauthorized basis. There are a wide variety of users that operate wireless microphones on an unauthorized basis, including theaters, churches, schools, sports facilities, entertainment venues, and meeting and conference facilities.

The operation of wireless microphones in the 700 MHz Band has the potential to cause harmful interference to new public safety and commercial licensees in the band. In light of this, the Commission is taking steps to clear wireless microphones from the 700 MHz Band as soon as possible, while providing entities currently operating wireless microphones with an opportunity to relocate and provide them a home in the core TV spectrum (television channels 2-51, excluding channel 37), where many wireless microphones are already operating.

To effectuate the Commission’s plan to clear wireless microphones from the 700 MHz Band, the Commission released a Report and Order¹ that requires all wireless microphones to cease operations in the 700 MHz Band no later than June 12, 2010. The Report and Order also provides an early clearing mechanism for the 700 MHz Band. Although under the new rules all wireless microphones must transition out of the 700 MHz Band no later than June 12, 2010, the early clearing mechanism provides that wireless microphone users must transition out of the band before that date in some circumstances. The Report and Order also provides that any person who manufactures wireless microphones or sells, leases, or offers them for sale or lease must display a disclosure at the point of sale or lease that informs consumers of the conditions that apply to the operation of wireless microphones that vacate the 700 MHz Band and relocate to the core TV spectrum. This consumer disclosure also must be displayed on the website of wireless microphone manufacturers and of dealers, distributors, retailers, and anyone else selling or leasing the devices. The disclosure will inform consumers of the

¹ Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition; Amendment of Parts 15, 74 and 90 of the Commission’s Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, WT Docket Nos. 08-166, 08-167, ET Docket No. 10-24, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 10-16 (rel. January 15, 2010).

conditions that apply to operation in the core TV spectrum, such as the applicable power limit, the fact that the device must not cause harmful interference and must accept interference, and the fact that the rules for unlicensed use of wireless microphones may change as the FCC continues to evaluate them. One way to fulfill the disclosure requirement is to display the consumer advisory on the product box by using a label, sticker, or other means. The Commission is requiring manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone devices for operation in the core TV bands to comply with the disclosure requirements no later than February 28, 2010, and the Commission is encouraging these entities to provide consumers with the required information earlier.

In a related order,² the Wireless Telecommunications Bureau and Consumer and Governmental Affairs Bureau of the Federal Communications Commission have adopted the specific text that must be used in the consumer disclosure. The text is as follows:

CONSUMER ALERT

Most users do not need a license to operate this wireless microphone system. Nevertheless, operating this microphone system without a license is subject to certain restrictions: the system may not cause harmful interference; it must operate at a low power level (not in excess of 50 milliwatts); and it has no protection from interference received from any other device. Purchasers should also be aware that the FCC is currently evaluating use of wireless microphone systems, and these rules are subject to change. For more information, call the FCC at 1-888-CALL-FCC (TTY: 1-888-TELL-FCC) or visit the FCC's wireless microphone website at www.fcc.gov/cgb/wirelessmicrophones.

In addition, the Report and Order prohibits the manufacture, import, sale, or lease of wireless microphones capable of operating in the 700 MHz Band in the United States. Manufacturers are not prohibited from manufacturing wireless microphones for export. The Commission provides that any person who manufactures, sells, or leases wireless microphones in the U.S. that are destined for non-U.S. markets and that are capable of operating in the 700 MHz Band must include labeling in all sales, marketing, and packaging materials, including online materials, related to such devices. The labeling must make clear that the devices cannot be used in the United States.

The reporting and third party disclosure requirements for the three aforementioned requirements of the Report and Order were approved by OMB on February 17, 2010 on an emergency basis under OMB Control Number 3060-1135. The Commission is requesting a revision of this collection due to the elimination of the early clearing requirement burden as it will become unnecessary after June 12, 2010. The collection

² Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition; Amendment of Parts 15, 74 and 90 of the Commission's Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, WT Docket Nos. 08-166, 08-167, ET Docket No. 10-24, Order, DA 10-92 (rel. January 15, 2010).

will keep the disclosure and labeling requirements that would allow the Commission to clear the 700 MHz band of wireless microphones and provide them a home in the core TV spectrum, where many wireless microphones are already operating. The Commission is requesting OMB approval for this revision.

The Commission determined that the point-of-sale disclosure requirement is essential for a successful transition of wireless microphones out of the 700 MHz Band. The Commission anticipates that many wireless microphone users currently operating in the 700 MHz Band will have to purchase or lease new equipment capable of operating in the core TV spectrum. The point-of-sale disclosure requirement will help these consumers make an educated decision as they obtain new microphones, and it will help them operate in the core TV spectrum without causing interference to other services in that spectrum.

The requirement that there be a label on 700 MHz wireless microphones bound for export is also important because it will help to ensure that these wireless microphones do not continue to be made available for use in the United States, in contravention of the Commission's efforts to remove them from the band.

Statutory authority for this collection of information is contained in 47 U.S.C. §§ 151, 152, 154(i), 154(j), 301, 302a, 303, 304, 307, 308, 309, 316, 332, 336, and 337.

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

2. The information in the point-of-sale disclosure will be used by consumers to help them make educated decisions about the purchase or lease of wireless microphone devices, and it will help them to operate in the core TV spectrum without causing interference to other services in that spectrum. The information in the label for 700 MHz wireless microphones bound for export will be used by consumers and will help to ensure that these microphones do not continue to be used or made available for use in the United States, in contravention of our efforts to remove them from the 700 MHz Band.

3. These are disclosure and labeling requirements. The use of information technology is feasible in this situation.

4. This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. The point-of-sale disclosure and export labeling requirements apply to large and small entities alike. The Commission believes whatever burdens small entities may incur in complying with these requirements are warranted by the overall benefit to the public from accomplishing the clearing of the 700 MHz Band for use by public safety entities such as police, fire, and emergency services, as well as by commercial licensees such as wireless broadband providers. These benefits include enhanced public safety; job creation; economic growth; stimulation of new technology in this country; and the shift

of spectrum from television broadcasting to other uses such as new wireless services and public safety and homeland security applications.

6. The information collection is essential to the responsible and effective implementation of the Commission's mission, and the avoidance of public harm resulting from a less than successful transition of wireless microphones out of the 700 MHz frequency band. The Commission anticipates that many wireless microphone users currently operating in the 700 MHz Band will have to purchase or lease new equipment capable of operating in the core TV spectrum. The point-of-sale disclosure requirement will help these consumers make an educated decision as they obtain new microphones, and it will help them operate in the core TV spectrum without causing interference to other services in that spectrum. The labeling requirement for 700 MHz wireless microphones bound for export will help to assure that these microphones do not continue to be used or made available for use in the United States, in contravention of the Commission's efforts to remove them from the band.

7. There are no special circumstances associated with this collection of information.

8. The 60-day notice soliciting comments on this collection was published in the *Federal Register* as required under 5 CFR 1320.8(d) on May 7, 2010 (75 FR 25254). No comments were received as a result of the Notice.

9. Respondents will not receive any payments.

10. There is no need for confidentiality.

11. None of the reporting burdens address any private matters or questions of a sensitive nature.

12. There are two (2) parts to this collection: Part A covers the disclosure at the point of sale or lease; and Part B covers the labeling requirement for devices bound for export.

Part A: Disclosure at the Point of Sale or Lease.

We estimate 5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment will label or display disclosures for twenty-five (25) pieces each of wireless microphone equipment that operate in the 700 MHz Band that are displayed on the sales floor or via direct mail, in a catalog, online or other electronic means. We estimate this activity will require 0.25 hours for each piece of wireless equipment that operates in the 700 MHz Band that is displayed.

Total Number of Annual Respondents: 5,000.

5,000 Manufacturers, Dealers, Distributors, and Other Entities.

Total Number of Annual Responses: 125,000.

5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band = 125,000 Annual Responses

Total Annual Burden Hours: 31,250 hrs.

5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band x 0.25 hrs./piece of equipment = 31,250 hrs.

Total Annual “In-House” Cost for Part B: \$312,500.

We assume that the retailer will provide the disclosure labeling using staff at \$10 an hour.

5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band x 0.25 hrs./piece of equipment x \$10.00/hr.= \$312,500

Part B: Labeling Requirement.

We estimate 100 manufactures, sellers, or entities that lease wireless microphone equipment in the U.S. that is destined for non-U.S. markets and that is capable of operating in the 700 MHz Band will label twenty-five (25) pieces each of wireless microphone equipment that operate in the 700 MHz Band in all sales, marketing, and packaging materials, including online materials, related to such devices. We estimate this activity will require 0.25 hours for each piece of wireless equipment that operates in the 700 MHz Band that is labeled.

Total Number of Annual Respondents: 100.

100 Manufacturers, Sellers, or Entities That Lease.

Total Number of Annual Responses: 2,500.

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band = **2,500 Annual Responses**

Total Annual Burden Hours: 625 hrs.

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band x 0.25 hrs./piece of equipment = 625 hrs.

Total Annual “In-House” Cost for Part C: \$6,250.

We assume that the retailer will provide the disclosure labeling using staff at \$10 an hour.

100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label/disclosure requirement each x 25 pieces each of wireless microphone equipment that operate in the 700 MHz Band x 0.25 hrs./piece of equipment x \$10.00/hr.= \$6250

Total Number of Annual Respondents for the entire collection: Part A (5,000) + Part B (100) = 5,100..

Total Number of Annual Responses for the entire collection: Part A (125,000) + Part B (2500) = 127,500.

Total Number of Annual Burden Hours for the entire collection: Part A (31,250) + Part B (625) = 31,875.

Total Annual “In-House” Cost for the entire collection: Part A (\$312,500) + Part B (\$6250) = \$318,750.

13. Part A: Disclosure at the Point of Sale or Lease.

(a) **Total Annualized Capital/Startup Cost: \$1,562,500.**

Annual Capital/Startup Cost: 5,000 manufacturers, dealers, distributors, and other entities that sell or lease wireless microphone equipment x 1 label/disclosure requirement each x 1250 pieces of wireless microphone equipment that operate in the 700 MHz Band x \$0.25 /piece of equipment = \$1,562,500

(b) Total annual costs (O&M): None.

(c) Total annualized cost requested: \$1,562,500.

Part B: Labeling Requirement.

(a) **Total Annualized Capital/Startup Cost: \$62,500.**

Annual Capital/Startup Cost: 100 manufactures, sellers, or entities that lease wireless microphone equipment x 1 label/disclosure requirement each x 2500 pieces each of wireless microphone equipment that operate in the 700 MHz Band x \$0.25 /piece of equipment = \$62,500.

(b) Total annual costs (O&M): None.

(c) Total annualized cost requested: \$62,500.

Total Number of Annualized Capital/Startup Costs Requested for the entire collection: Part A (\$1,562,500) + Part B (\$62,500) = \$1,625,000.

Total Number of Annual Costs (O&M) Requested for the entire collection: Part A (\$0) + Part B (\$0) = \$0.

Total Number of Annualized Cost Requested for the entire collection: Part A (\$1,562,500) + Part B (\$62,500) = \$1,625,000.

14. Part A: Disclosure at the Point of Sale or Lease.

There is no cost to the Federal Government. Disclosures will not be actively monitored in the absence of consumer complaints.

Part B: Labeling Requirement.

There is no cost to the Federal Government. Consumer labeling will not be actively monitored in the absence of consumer complaints.

Total cost to the Federal Government from parts A and B of the collection:

Part A (\$0.00) + Part B (\$0.00) = \$0.00.

15. This is a revision of previously approved collection 3060-1135. The Commission is requesting a revision of this collection due to the elimination of the early clearing requirement burden as it will become unnecessary after June 12, 2010. The collection will keep the disclosure and labeling requirements that would allow the Commission to clear the 700 MHz band of wireless microphones and provide them a home in the core TV spectrum, where many wireless microphones are already operating. The Commission has reduced the burden by 1049 hours.

16. The data will not be published for statistical use.

17. The Commission is requesting a waiver of the OMB expiration date on all labels or consumer disclosure statements. This would not be cost effective for manufacturers because the OMB expiration date changes periodically for this information collection. The Commission publishes the OMB control number, title, and OMB expiration date of this information collection or is “displayed” at 47 CFR 0.408 of the Commission’s rules.

18. There are no exceptions to the “Certification Statement” in Item 19.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.