

**Service of Petitions for Preemption, 47 CFR §§ 1.1204(b) Note,
1.1206(a) Note 1**

SUPPORTING STATEMENT

A. Justification:

1. The Commission's rules, 47 CFR §1.1204(b) Note and §1.1206(a) Note 1, require petitions seeking Commission preemption of state and local government regulation of telecommunications services, whether in the form of a petition for rulemaking or a petition for declaratory ruling, to be served on all state and local governments the actions of which are cited as a basis for requesting preemption.

Thus, in accordance with these provisions, persons seeking preemption must serve their petitions not only on the state or local government whose authority would be preempted, but also on other state or local governments whose actions are cited in the petition.

Although the respondents include "individuals," people filing these petitions do not have any expectations of privacy for any personal information they provide. These petitions are publicly available. Consequently, the Commission believes that there are no impacts under the Privacy Act of 1974, as amended.

However, the FCC has a system of records, FCC/OGC-5, "Pending Civil Cases," to cover the collection, purpose(s), storage, safeguards, and disposal of the personally identifiable information (PII) that individuals may submit with their petitions for preemption that they file with the Commission. It was published in the *Federal Register* on April 5, 2006 (71 FR 17234, 17244).

A Privacy Impact Assessment (PIA) for this system of records, FCC/OGC-5, is currently being drafted. After its approval, the Commission will post this PIA on the FCC's Privacy Act webpage.

The statutory authority for this collection of information is authorized under 47 U.S.C. 151, 154, and 303.

2. State and local governments, which are cited in petitions for the preemption of telecommunications services, use the information in the relevant petitions to respond to allegations made about their actions by the petitioners.
3. The Commission's rules permit service by electronic means only under limited circumstances. *See* 47 CFR § 1.47(d).
4. Although the affected state and local governments could obtain copies of petitions by other means, service is necessary to give them a timely opportunity to respond to allegations made about them.
5. This information collection does not have a significant economic impact on a substantial number of small entities.
6. Unless affected state and local governments have a timely opportunity to respond to allegations made about their activities, there is a potential for the Commission to make decisions about the preemption of telecommunications services without fully hearing the facts and circumstances involved.
7. Respondents must report information whenever they file a preemption petition, which may be more frequent than quarterly.

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8. The Commission published a 60 day notice in the *Federal Register* on December 30, 2009, 74 FR 69096. We received no comments following publication of this notice.
9. No payments or gifts are made in connection with this requirement.
10. This information collection does not require respondents to submit of any confidential information, nor is the Commission requesting that respondents submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 C.F.R. Section 0.459.

As noted in Question 1, the FCC has a system of records, FCC/OGC-5, "Pending Civil Cases," to cover the collection, purpose(s), storage, safeguards, and disposal of the personally identifiable information (PII) that individuals may submit with their petitions for preemption that they file with the Commission.

11. No questions of a sensitive nature are involved with the information collection requirements, nor are there any privacy issues, as noted in Questions 1 and 10 above.

12. The Commission estimates that:

(a) In the aggregate, the respondents file an estimate 125 preemption requests annually, as follows:

- (1) Individuals or households comprise 5% of the respondents—6 respondents;
- (2) Businesses and other for-profits comprise 60% of the respondents—75 respondents;
- (3) Not-for-profit institutions comprise 15% of the respondents—19 respondents; and
- (4) State, local, or tribal governments comprise 20% of the respondents—25 respondents.

(b) Each respondent files approximately one preemption request annually; and

(c) Each respondent requires approximately twelve (12) minutes (0.20 hours) to prepare the filings and five (5) minutes to prepare the third party disclosure (0.083), based on the Commission's analysis of the amount of time required to copy and mail the documents.

6 individuals x 0.20 hours/preemption petition = 1.25 hours

75 businesses x 0.20 hours/preemption petition = 15.00 hours

19 institutions x 0.20 hours/preemption petition = 3.75 hours

25 state, local, or tribal governments x 0.20 hours/preemption petition = 5.00 hours

Preemption Petitions: 1.25 hours + 15.00 hours + 3.75 hours + 5.00 hours = **25 hours**

6 individuals x 0.083 hours/3rd party disclosure = 0.52 hours

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75 businesses x 0.083 hours/3rd party disclosure = 6.25 hours

19 institutions x 0.083 hours/3rd party disclosure = 1.56 hours

25 state, local, or tribal governments x 0.25 hours/3rd party disclosure = 2.08 hours

Third Party Disclosure: 0.52 hours + 6.25 hours + 1.56 hours + 2.08 hours = **10 hours**

Total Annual Hourly Burden: 25 hours + 10 hours = **35 hours**

| Respondents | Percentage of Respondents | Number of Respondents | Hours per Response for Petitions | Hours per 3 rd Party Disclosure | Annual Hourly Response |
|-------------------------------------|---------------------------|-----------------------|----------------------------------|--|------------------------|
| Individuals or households | 5% | 6 | 1.25 | 0.52 | 2 |
| Businesses or other for-profits | 60% | 75 | 15.00 | 6.25 | 21 |
| Not-for-profit institutions | 15% | 19 | 3.75 | 1.56 | 5 |
| State, local, or tribal governments | 20% | 25 | 5.00 | 2.08 | 7 |
| TOTALS | | 125 | 25 | 10 | 35 |

Total Number of Respondents: 125

Total Number of Responses Annually: 125

Total Annual Hourly Burden: 35 hours

The Commission believes that respondents consider the preparation and service of these petitions for preemption to be part of their regular business costs.

Total “In House” Costs: \$0.00

13. The total annual costs to respondents are:

(a) Total annualized capital/startup costs: \$0.00

(b) Total annual costs (O&M): **\$0.00**

(c) Total annualized cost requested: **\$0.00**

14. This information collection requires disclosure to third parties at no cost to the Federal government.

15. The Commission has increased the total annual hourly burden (adjustment) to fit the methodological requirements of ROCIS—the total number of hours has been increased from 30 hours to 35 hours.

There are no other adjustments or program changes.

16. There are no plans to tabulate or publish this information.

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17. The Commission is not seeking not to display the OMB expiration date. The OMB will publish the OMB Control number, title, and OMB expiration date in 47 CFR § 0.408.
18. The Commission notes that the changes in the methodology for calculating the total annual hourly burdens and the “third party disclosure” requirements required by ROCIS have resulted in a five (5) hour increase in the total estimated annual hourly burden, from 30 hours to 35 hours.

In addition, the Commission has determined that there are no Privacy Impacts because those individuals (respondents) filing these petition do not have any expectations of privacy for any personal information they provide. Nonetheless, the FCC has a system of records, FCC/OGC-5, “Pending Civil Cases,” to cover the collection, purpose(s), storage, safeguards, and disposal of the personally identifiable information (PII) that individuals may submit with their petitions for preemption that they file with the Commission. A Privacy Impact Assessment is also being drafted.

There are no other exceptions to the Certification Statement in Item 19 of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.