

SUPPORTING STATEMENT

A. Justification:

1. This collection includes the various rule sections in Part 101 governing reporting and third party disclosure requirements required by Multichannel Video Distribution and Data Service (MVDDS) licensees and Direct Broadcast Service (DBS) licensees. The Commission is seeking an extension of this information collection in order to obtain the full three-year approval from OMB. Although there are adjustments to the burden hours and cost estimates, there are no changes in any of the reporting and third party disclosure requirements.

The following is a description of the information collection requirements that are contained in the various rule sections for Part 101:

a. **Section 101.1403** requires certain Multichannel Video Distribution and Data Service (MVDDS) licensees that meet 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.

b. **Section 101.103(f)** requires MVDDS licensees to provide notice of intent to construct a proposed antenna to Non-Geostationary Satellite Orbit Fixed Satellite Service (NGSO-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.

c. **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.

d. **Section 101.1440** requires Multichannel Video Distribution and Data Service (MVDDS) licensees to collect information and disclose information to third parties. Therefore, the reporting and disclosure requirements are as follows:

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.

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

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 to ensure that MVDDS licensees meet the broadcast carriage requirements; to ensure that MVDDS antennas meet minimum spacing requirement; to determine whether a licensee is providing substantial service; to ensure that MVDDS licensees protect DBS customers of record from interference as required by the Commission’s rules; and 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).

When NGSO-FSS begins operating in the same band as MVDDS (12.2-12.7 GHz), the third party disclosure and notification requirements in Section 101.103(f), are 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 requires the MVDDS station licensees to provide the data contained in the licensee information report annually to the FCC to enable the Commission to keep abreast of certain 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. The FCC initiated a 60 day comment period which was published in the *Federal Register* on June 30, 2011 (76 FR 38395), as required by 5 CFR Section 1320.8. No comments were received as a result of this notice. 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 with this collection of information.

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

12. Respondent Burden Hours:

Please see the chart below for the frequency of response, time per response and the total annual burden hours for the **17 respondents** to this collection. 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	2	1 (On occasion)	1	2
b.	Section 101.103(f) (placeholder – FCC use only)	0	0	0	0
c.	Section 101.1413	11	5	0.5	27.5 ¹
d.	Section 101.1440	2 2	4 (On occasion)	40 25	320 + <u>200</u> 520
e.	Section 101.1417	15	1 (Annually)	1	15
	TOTAL	17			565 hours (rounded)

- a. The estimated time for a letter of consent is 1 hour per respondent (2 x 1 hour = 2 hours).
- b. We are revising our estimates downward because, to date, there are no relevant NGSO FSS licensees in the 12.2-12.7 GHz band.
- 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 0.5 hours per license. Although the next filings will occur in 2014, to estimate the annual burden, we are assuming that 75 responses are filed annually over the 3-year approval period. We estimate that 75% (11 respondents completing 55 responses annually (rounded downward)) will use internal staff and 25% (4 respondents completing 20 responses annually (rounded upward)) will use outside consultants to comply with the requirements of this rule section. (55 x .5 hours = 27.5 hours)

¹ Due to rounding issues this burden accounts for 55 of the responses (rounded downward).

- d. Two MVDDS licensees x four coordinations x 40 hours = 320 hours; 2 DBS licensees x four coordinations x 25 hours = 200 hours. We estimate two 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 two DBS licensees taking 25 hours per coordination to provide responsive data to MVDDS licensees. There is one MVDDS licensee per license area. 320 + 200 hours = 520 total hours.
- e. 15 licensees x 1 hour to prepare annual report = 15 total hours.

In-house costs:

(a) Section 101.1403: 2 respondents x 1 hr.= 2 hrs. x \$35 per hr. (mid-to-senior level employee) = \$70

(b) Section 101.103(f): \$0

(c) Section 101.1413: 55 responses x .5 hrs.= 27.5 hrs. x \$35 per hr. (mid-to-senior level employee) = \$962.50

(d) Section 101.1440: (2 MVDDS x 4 responses x 40 hrs = 320 hrs) + (2 DBS x 4 responses x 25 hrs. = 200 hrs) Total = 520 hrs. x \$35 per hr. (mid-to-senior level employee) = \$18,200

(e) Section 101.1417: 15 respondents x 1 hr.= 15 hrs. x \$35 per hr. (mid-to-senior level employee) = \$525

a) \$70 + b) \$0 + c) \$962.50 + d) \$18,200 + e) \$525 = **\$19,757.50.**

Total Number of Annual Responses: a) 2 + b) 0 + c) 55+20=75 + d) 8 + 8 + e) 15 = **108**

13. Total Cost to the respondents:

- a. Total annualized capital/start up costs: None
- b. Total annual costs (O&M): None
- c. As noted in Item 12(c) above for Section 101.1413, we estimate that respondents will use an outside consultant to prepare the showing of substantial service for 25% of 75 responses or 20 responses annualized (rounded upward) (that are filed at the end of five and ten years into the license term).

This calculates to 0.5 hours x 20 responses for document preparation x \$300 per hour = **\$3,000 annually.**

14. **Cost to the Federal Government:**

For review of the 75 substantial service showings per year (§ 101.1413):
75 x .5 hrs. = 37.5 hrs. x \$57.13 per hr. (GS 14/Step 5 Engineer) = \$2,142.

For review of the 15 annual reports (§ 101.1417):
15 x .5 hrs = 7.5 hrs. x \$40.66 per hr. (GS 12/Step 5 Analyst) = \$305

Total Cost: \$2,142 + \$305 = **\$2,447.**

15. The Commission does not have any program changes to this collection. There are adjustments/decreases to the collection due to the number of estimated respondents decreasing since the last time this information collection was approved by OMB. Therefore, the number of respondents decreases by 200 (from 217 to 17), the number of annual responses decreases by 109 (from 217 to 108), the annual burden hours decrease by 9,782 hours (from 10,347 to 565 hours) and the annual cost burden decreases by \$2,300 (from \$5,300 to \$3,000). These revised estimates more accurately reflect the Commission's current data available.

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 the Certification Statement.

B. Collection of Information Employing Statistical Methods:

No statistical methods are employed.