

SUPPORTING STATEMENT

The Federal Communications Commission (Commission) is seeking approval from the Office of Management and Budget (OMB) for a revision to a currently approved collection. The Commission is requesting clearance for a revision to a currently approved information collection to implement new collection requirements resulting from the Commission's adoption of new and modified rules for existing wireless broadband licensees in the 3650-3700 MHz band, authorized under Part 96, subpart Z of the Commission's rules (Grandfathered Wireless Broadband Licensees), and, in order to receive interference protection for registered stations, these licensees must notify the Commission that these stations were constructed, in service, and fully compliant with the relevant operating rules as of April 17, 2016. We respectfully request OMB approval for this revised information collection no later than 26 days after it is received at OMB.

A. Justification:

1. *Circumstances that make the revised collection necessary.* The Commission seeks emergency processing under the Paperwork Reduction Act (PRA), 5 U.S.C. § 1320.13. The Commission is requesting approval from OMB for this revised information collection no later than twenty-six (26) days after it is received at OMB.

***Current Information Collection Requirement Which Received OMB Review and Approval:*¹**

On April 17, 2015, the Federal Communications Commission ("Commission" or "FCC") adopted a Report and Order and Second Further Notice of Proposed Rulemaking, FCC 15-47, GN Docket No. 12-354 (*3.5 GHz Order*) that establishes rules for commercial use of 150 megahertz in the 3550-3700 MHz (3.5 GHz) band and creates a new Citizens Broadband Radio Service. The rules created additional capacity for wireless broadband by adopting a new approach to spectrum management to facilitate more intensive spectrum sharing between commercial and federal users and among multiple tiers of commercial users.

The Commission introduced licensing, technical, and service rules that would enable spectrum sharing among three tiers of users in the 3.5 GHz Band: Incumbent Users; Priority Access Licenses (PALs); and General Authorized Access (GAA) to be managed by one or more Spectrum Access System(s) (SAS(s)). The SAS incorporates a dynamic spectrum database and serves as an advanced, highly automated frequency coordinator across the band. The Commission previously sought and received OMB approval for information collection requirements related to existing and future licensees and users established by the *3.5 GHz Order*.

Statutory authority for this currently approved information collection is contained in Sections 1, 2, 4(i), 4(j), 5(c), 302(a), 303, 304, 307(e), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 155(c), 302(a), 303, 304, 307(e), and 316.

Revised Information Collection Requirement Which Requires OMB Review and Approval:

¹ The rule sections which previously were approved by OMB under information collection 3060-1211 are as follows: 96.17; 96.21; 96.23; 96.33; 96.35; 96.39; 96.41; 96.43; 96.45; 96.51; 96.57; 96.59; 96.61; 96.63; 96.67.

In the *3.5 GHz Order*, the Commission adopted rules to protect existing licensees' registered base stations in the 3650-3700 MHz band from harmful interference from Citizens Broadband Radio Service users for a fixed transition period. Pursuant to Section 96.21(a)(1) and (2) of the Commission's rules,² during the transition period, existing licensees will receive protection for operations that are within their Grandfathered Wireless Protection Zone, provided that: (1) the stations were registered in the Commission's Universal Licensing System (ULS) on or before April 17, 2015; and (2) as of April 17, 2016 the stations were constructed, in service, and fully compliant with the relevant operating rules.

The *3.5 GHz Order* established rules for commercial use of 150 megahertz in the 3.5 GHz Band and created a new Citizens Broadband Radio Service. The rules create additional capacity for wireless broadband by adopting a new approach to spectrum management to facilitate more intensive spectrum sharing between commercial and federal users and among multiple tiers of commercial users. Freeing additional spectrum is one of the Commission's core spectrum policy goals and the President's Council of Advisors on Science and Technology recommended that this band would be particularly well suited for spectrum sharing.

Before the release of the *3.5 GHz Order*, the band segment was currently reserved for use by Department of Defense (DoD) radar systems and commercial fixed satellite service (FSS) earth stations (in the 3600-3650 MHz portion of the band), as well as Grandfathered Wireless Broadband Radio Services. The *3.5 GHz Order* established a roadmap for making the entirety of the 3.5 GHz band available for commercial use in a phased manner. This sharing arrangement is part of a broader three-tiered sharing framework enabled by a Spectrum Access System (SAS). The SAS incorporates a dynamic spectrum database and serves as an advanced, highly automated frequency coordinator across the band.

Incumbent users represent the highest tier in this framework and receive interference protection from Citizens Broadband Radio Service users. Protected incumbents include the federal operations and FSS earth stations described above and, for a finite period, Grandfathered Wireless Broadband Licensees. Non-federal incumbents must register the parameters of their operations with the Commission and/or an SAS to receive protection from Citizens Broadband Radio Service users.

On August 19, 2016, the Wireless Telecommunications Bureau (WTB) and Office of Engineering and Technology (OET) released a Public Notice adopting the final methodology for determining Grandfathered Wireless Protection Zones for existing licensees in the 3650-3700 MHz band, establishing a baseline contour used to protect these areas.³ The Public Notice reiterated that licensees are required to certify which of their base stations were constructed, in service, and in full compliance with the rules by April 17, 2016. At the same time that licensees certify to the above they must identify whether or not that base station has unregistered Customer Premises Equipment (CPE) and the distance to the furthest registered CPE for each sector.

As stated in the Public Notice, the Commission is currently in the process of modernizing its Universal Licensing System (ULS) so that it will have the functionality to collect all the necessary data. When the mechanism is in place, WTB will communicate to the licensees the process by which they must submit this additional information. Then the existing registration data in ULS, along with the supplementary

² See 47 C.F.R. § 96.21(a)(1) and (2).

³ See 47 C.F.R. § 96.3 (Grandfathered Wireless Protection Zone). See *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Methodology for Determining the Protected Contours for Grandfathered 3650-3700 MHz Licensees*, GN Docket No. 12-354, Public Notice, DA 16-946 (Aug. 19, 2016).

information provided by licensees, will determine the Grandfathered Wireless Protection Zone. The Grandfathered Wireless Protection Zones will then be communicated to the SASs.

Implementing the Grandfathered Wireless Protection Zones will be a one-time event. The zone for each station will remain unchanged unless a base station is taken out of service. If a base station is taken out of service the licensee will be required to delete the registration, the FCC will communicate to the SAS that the base station is no longer in service and that station's Grandfathered Wireless Protection Zone will no longer be protected.

The Commission seeks approval for a revision to its previously approved collection of information under OMB Control Number 3060-1211 to permit the collection of reports concerning prohibited communications required by sections 96.21(a)(1) and (2) of the Commission's rules. 47 C.F.R. §§ 96.21(a)(1) and (2).

Statutory authority for the revised information collection is contained in Sections 1, 2, 4(i), 4(j), 5(c), 302(a), 303, 304, 307(e), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 155(c), 302(a), 303, 304, 307(e), and 316.

2. *Use of information.* The Commission's rules establishing registration and construction requirements for Grandfathered Wireless Broadband Licensees are intended to distinguish between "real" networks that have received substantial investment and provide socially productive service from "paper networks" whose only effect is to restrict spectrum accessible by the Citizens Broadband Radio Service. The revised information collection under sections 96.21(a)(1) and (2) will help the Commission and the SASs protect these existing networks from interference during the transition period while promoting spectral access and efficiency by new users in the band and is an important step in making this band available for commercial use. Further, the information will allow the licensees that have invested in such networks to receive interference protection as afforded by the rules.

3. *Technological collection techniques.* As noted above, the Commission is currently in the process of modernizing its Universal Licensing System (ULS) so that it will have the functionality to collect all the necessary data. Licensees will submit their construction information electronically using this database.

4. *Efforts to identify duplication.* There will be no duplicative information collected. The information sought is unique to covered parties and is not already available because the Commission does not impose a separate similar information collection on such parties. Thus, there is no similar data available under another information collection. Implementing the Grandfathered Wireless Protection Zones will be a one-time event. The zone for each station will remain unchanged unless a base station is taken out of service. If a base station is taken out of service the licensee will be required to delete the registration, the FCC will communicate to the SAS that the base station is no longer in service and that station's Grandfathered Wireless Protection Zone will no longer be protected.

5. *Impact on small entities.* As explained in the Final Regulatory Flexibility Analysis included in the 3.5 GHz Order, the Commission does not believe that the costs and/or administrative burdens associated with the reporting requirements will unduly burden small entities. The construction reporting requirement adopted for covered licensees applies to small and large entities equally and ability to file this information electronically minimizes the reporting burden. Therefore, the Commission expects this reporting requirement to have little impact on small businesses generally.

6. *Consequences if information is not collected.* If the Commission is unable to collect this information, the SAS will not be able to adequately protect Grandfathered Wireless Broadband Licensees from harmful interference in the 3.5 GHz Band, unfairly harming their existing investment in the band. The

Commission also believes generally that any burden associated with the reporting requirement is outweighed by the advantages of affording these licensees interference protection.

7. *Special circumstances.* The reporting requirement in sections 95.21(a)(1) and (2) of the Commission's rules as currently approved do not have any of the characteristics that would have required separate justification under 5 C.F.R. § 1320.5(d)(2).

8. *Federal Register notice; efforts to consult with persons outside the Commission.* Emergency approval is being sought for this revised information collection, and the Commission seeks a waiver of the 60-day notice requirement in 5 C.F.R. § 1320.8(d) due to the emergency nature of this request. However, the Commission has published a 21-day emergency PRA notice in the Federal Register seeking public comments on the revised information collection (see 81 FR 69816, published on October 7, 2016).

The Commission will follow all of the regular OMB clearance processes and procedures for the revised information collection upon approval of its emergency request, and will publish the necessary notices in the Federal Register when seeking regular OMB approval.

9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts.

10. *Assurances of confidentiality.* The Commission does not expect that any of the construction information will include confidential information, but to the extent necessary, a Grandfathered Broadband Wireless Licensee may request confidential treatment of the construction information pursuant to section 0.459 of the Commission's rules. See 47 C.F.R. § 0.459.

11. *Questions of a sensitive nature.* Neither the currently approved nor the revised information collection asks questions of a sensitive nature.

12. *Estimate of the time burden of the revised collection on respondents.* There are 2,750 existing Grandfathered Wireless Broadband Licensees and approximately 30,000 registered base stations entitled to protection, and, on average, one construction filing will cover three locations. Therefore, we expect there will be a total of 10,000 one-time filings.

With regard to the time burden, the Commission believes that, depending on the complexity and level of communication involved, it will take each party approximately **1 hour** to review and verify site information using in-house staff. The Commission believe that it will take each party **.5 hours** to review information and consult with outside counsel.

10,000 responses x 1 hour to review and verify information by in-house staff =	10,000 hours
10,000 respondents x .5 hours to consult with outside counsel =	<u>5,000 hours</u>
Total:	15,000 hours

Total Number of Respondents is: 110,782.

Total Number of Annual Responses: 136,432 (existing) + 10,000 (new) = 146,432.

Total Hour Burden is: 37,977 hours (existing) + 15,000 hours (new) = 52,977 hours.

Total In-House Cost to Respondents: \$1,900,345 (updated existing) + \$750,600 (new)⁴ = \$2,650,945.

13. *Estimate of the cost burden of the revised collection on respondents.* The Commission estimates that respondents will prepare the submission with in-house staff, such as in-house engineer or the equivalent. Respondents will also consult with outside counsel and need legal assistance to review the response.

Where outside counsel is used, the Commission believes that the time burden will be approximately .5 **hours** for consultation and preparation of the submission. Assuming a **\$300/hour** rate for outside counsel, the cost of consultation and/or submission preparation will be:

10,000 respondents x .5 hours for legal consultation x \$300/hour = **\$1,500,000.**

Total Annual Cost: \$7,318,100 (existing) + \$1,500,000 (new) = \$8,818,100.

14. *Estimate of the cost burden of the revised collection on the Commission.* The Commission estimates that a staff engineer (GS-15/5, at \$69.56/hour) will review these filings for approximately 1 hour = \$69.56.

One engineer at \$69.56/per hour x 10,000 responses = \$695,600.

Total Annual Cost to the Federal Government is: \$2,299,038 (updated existing) + \$695,600 (new) = \$2,994,638.

15. *Program changes or adjustments from the revised collection.* Revisions to the information collection requirements in the *3.5 GHz Order* aim to further the Commission's goal of promoting efficient spectrum sharing in its new tiered use regime. The following figures will be added to OMB's inventory as a result of the information collection requirements contained in 3060-1211: 10,000 responses, 15,000 burden hours and \$1,500,000 in annual cost.

16. *Collections of information whose results will be published.* Neither the currently approved information collection nor the revised collection will be published for statistical use.

17. *Display of expiration date for OMB approval of information collection.* The Commission seeks continued approval to not display the expiration date for this collection.

18. *Exceptions to certification statement for Paperwork Reduction Act submissions.* There are exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

Statistical methods were not employed with this information collection.

⁴ The new in-house cost for this collection was calculated as follows: 15,000 hours x \$50.04 = \$750,600.