

## **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 submitting this information collection to the Office of Management and Budget (OMB) as an extension with minor changes to the burden hours, cost estimates, and the reporting and third party disclosure requirements in order to obtain the full three-year clearance.

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

- a. **§ 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. **§ 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. **§ 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. § 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. §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 of the initial authorization grant. The FCC needs this information to determine whether a licensee is providing substantial service at five and ten years into the license term to consider a licensee's claim for a renewal expectancy. However, the Commission granted renewals to ten licensees for a total of 191 licenses under requests for waiver and extension of these requirements and, in an abundance of caution, each renewed license includes a special condition stating that the 5-year and 10-year requirements of § 101.1413 are applicable to each renewed license. One of the ten licensees and two additional licensees have similar requests pending for a total of 22 licenses. 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 1320.5.

8. The FCC initiated a 60 day comment period which was published in the *Federal Register* on February 6, 2017 (82 FR 9380), as required by 5 CFR Section 1320.8. No PRA comments were received from the public.

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. Annual Burden (In-house):**

Please see the chart below for the frequency of response, time per response and the total annual burden hours for the **12 respondents** to this collection. A total of 12 licensees hold a total of 213 MVDDS licenses. Our explanation of the estimates for each item follows the chart.

Annual Burden

<sup>12</sup> .	Rule Sections	Number of Respondents	Frequency of Response	Time per Response (Hours)	Total Annual Burden Hours
a	§ 101.1403	2	1 (On occasion)	1	2
b.	§101.103(f) (placeholder – FCC use only)	0	0	0	0
c.	§ 101.1413	3 (in-house)	6	0.5	9
d.	§ 101.1440	2 2	4 (On occasion)	40 25	320 + <u>200</u> <b>520</b>
e.	§ 101.1417	12	1 (Annually)	1	12
	<b>TOTAL</b>	<b>12</b>			<b>543 hours</b>

**12-a.** §101.1403. The estimated time for a letter of consent is 1 hour per respondent.

**Annual Burden: 2 respondents x 1 response each x 1 hour per response = 2 hours.**

**In-house Staff Cost: (2 respondents x 1 response each x 1 hour = 2 hours) x \$44.12<sup>1</sup> per hour (Management Analyst) = \$88.24.**

**12-b.** §101.103(f). We are revising our estimates downward because, to date, there are no relevant NGSO FSS licensees in the 12.2-12.7 GHz band.

**= 0 hours (this entry is on the statement merely to remind FCC staff to re-activate it in the future and to act as a place holder for this requirement.**

**12-c.** §101.1413. 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. Currently, a total of 12 licensees hold a total of 213 MVDDS licenses, all of which have their 10-year substantial-service showings due during the past 3-year approval period. However, the Commission granted most licensees' renewal applications under requests for waiver and extension of these requirements (some licensees' renewal/extension requests are pending). In an abundance of caution, each renewed license includes a special condition stating that the 5-year and 10-year requirements of § 101.1413 are applicable to each renewed license. For purposes of this submission to OMB and without prejudice to the outcome of the pending renewal/extension requests, we are assuming that all 12 licensees will have a 5-year reporting requirement in 2019 for all 213 MVDDS licenses. (Some or all licensees may instead file requests for further waiver or extension of time under § 1.946(e) of the FCC's rules.) Although these filings are due in 2019, to estimate the *annual* burden over the three-year approval period we assume that the responses are filed evenly over each year of the three-year approval period. Assuming that 71 responses are filed annually over the 3-year approval period by each of 12 licensees, the frequency of response is 5.9 annually per respondent, rounded up to 6. We estimate that 3 respondents (25%) will use in-house staff.

**Annual Burden: 3 MVDDS licensees x 6 responses each x 0.5 hours = 9 hours**

**In-house staff costs: 9 hours x \$44.12 per hour (Management Analyst) = \$397.08.**

**12-d.** §101.1440. 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.

**Annual Burden: 2 MVDDS licensees x 4 coordination x 40 hours = 320 hours.**

**Annual Burden: 2 DBS licensees x 4 coordination x 25 hours = 200 hours.**

**Total: 320 + 200 hours = 520 total hours.**

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<sup>1</sup> U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2015, 13-1111 Management Analysts, National estimates for this occupation. The same hourly amount will be used in 12-c to e.

**In-house Staff Cost: (2 MVDDS licensees x 4 coordination x 40 hours) + (2 DBS licensees x 4 coordination x 25 hours) x \$44.12 per hour (Management Analysis) = \$22,942.40**

12-e. §101.1417.

**Annual Burden: 12 respondents x 1 response each x 1 hour = 12 hours.**

**In-house Staff Cost: (12 respondents x 1 response each x 1 hour) x \$44.12 per hour (Management Analysis) = \$529.44.**

**TOTAL NUMBER OF RESPONDENTS: 12 Licensees.**

**TOTAL NUMBER OF ANNUAL RESPONSES: 2 + 0 + 71<sup>2</sup> + 16 (8 + 8) + 12 = 101.**

**TOTAL ANNUAL BURDEN: 2 + 0 + 9 + 520 + 12 = 543 HOURS.**

**IN-HOUSE STAFF COST: \$88.24 + \$0 + \$397.08 + \$22,942.40 + \$529.44 = \$23,957.16.**

13. Total Cost to the respondents (Consultants): Applicants should not incur outside capital and start-up costs and/or operation and maintenance of purchase or services in connection with this information collection. However, for § 101.1413 (see Item 12c above) we assume that nine (75 percent of the 12 respondents) will contract consultants to handle the burden of reporting; the remaining 25 percent of respondents will employ in-house staff to respond, see #12-c, Annual Cost Burden – In-house. The Commission assumes that the respondents will use a consultant attorney (\$300/hour) to consult and prepare information.

§ 101.1413

**ANNUAL COST BURDEN – CONSULTANT: (9 respondents x 6 response each x 0.5 hours (attorney)) x \$300 per hour = \$8,100.**

**TOTAL ANNUAL COST BURDEN – CONSULTANT = \$8,100**

**TOTAL CAPITAL AND START –UP COSTS AND/OR OPERATION AND MAINTENANCE (O&M) COSTS: \$8,100**

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

§ 101.1413

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<sup>2</sup> The Commission estimates that there is a total of 71 responses to this information collection. Of the 71 responses, 25% or 18 responses are completed by in-house staff and the remaining responses are completed by contracting attorneys (see question 13).

For review of the average of 71 substantial service showings per year:  
71 x .5 hrs. = 35.5 hrs. x \$60.83 per hr. (GS 14/Step 5 Engineer) = \$2,159.47.

For review of the 12 annual reports (§ 101.1417):  
12 x .5 hrs. = 6 hrs. x \$43.29 per hr. (GS 12/Step 5 Analyst) = \$259.74.

**TOTAL ANNUAL GOVERNMENT COST:** \$2,159.47 + \$259.74 = **\$2,419.21.**

15. There are minor adjustments in the Commission's burden and cost estimates. The number of respondents has decreased by 5, the number of annual responses has decreased by 7, the annual burden hours have decreased by 22 and the annual cost has increased by \$5,100.

There are no program changes to this collection.

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. However, the Commission publishes a list of OMB approved information collections in 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the Certification Statement.

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

No statistical methods are employed.