

March 8, 2022

FEDERAL COMMUNICATIONS COMMISSION

OMB Control Number: 3060-0800

FCC Form 603

Requested Action: Non-substantive change/non-material change request

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The Federal Communications Commission submits this non-substantive change request to the Office of Management and Budget (OMB) for approval of non-substantive/non-material changes to FCC Form 603 (OMB Control Number 3060-0800). FCC Form 603 is a multipurpose form that is used to administer licenses in the Wireless Radio Services and Private Wireless Services using the Universal Licensing System (ULS) or any other electronic filing interface the Commission develops. FCC Form 603 is composed of a main form that contains the administrative information and a series of schedules used for filing technical information. These schedules are required when applying for Wireless Radio and/or Private Wireless Services, partitioning and disaggregation, undefined geographical area partitioning, and notification of consummation or request for extension of time for consummation. For example, applicants/licensees use FCC Form 603 to apply for an assignment or transfer of control, to establish their parties' basic eligibility and qualifications, to classify the filing, and/or to determine the nature of the proposed service. This form is also used to notify the FCC of consummated assignments and transfers of wireless licenses to which the Commission has previously consented or for which notification but not prior consent is required, or to request an extension of time for consummation. Respondents are required to submit FCC Form 603 electronically.

The Commission submits to OMB for approval the following non-substantive changes to the FCC Form 603 to implement licensing administration and spectrum policies that have been published in recent Commission orders, and to make general ministerial updates to the form:

(1) Adding a checkbox to the form for any applicant who wishes to assign or transfer a 3.5 GHz Priority Access License (PAL) or some portion thereof. By checking the box, the applicant certifies that grant of the application would not result in a violation of the 40 megahertz in-band spectrum aggregation limit set forth under section 96.31 of the Commission's rules, taking into consideration the spectrum attribution rules under section 20.22(b) of the Commission's rules.

(2) Adding a checkbox to the form for any applicant who wishes to assign or transfer a 3.45 GHz license or some portion thereof. By checking the box, the applicant certifies that grant of the application would not result in a violation of the 40 megahertz in-band spectrum aggregation limit set forth under section 27.1606 of the Commission's rules, taking into consideration the spectrum attribution rules under section 20.22(b) of the Commission's rules.

(3) Removing question 6b in the form to reflect recent changes in the Commission's rules concerning application fees.

*Change 1.* On April 21, 2015, the Commission adopted the 3.5 GHz Report and Order and Further Notice of Proposed Rulemaking in which it created service rules for shared commercial use of the 3550-3700 MHz band (3.5 GHz Band). (See Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band, GN Docket No. 12-354, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959 (2015); see also Amendment of the

Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band, GN Docket No. 12-354, Order on Reconsideration and Second Report and Order, 31 FCC Rcd 5011 (2016); Promoting Investment in the 3550-3700 MHz Band, GN Docket No. 17-258, Report and Order, 33 FCC Rcd 10598 (2018).) In doing so, it created a three-tiered access and authorization framework to coordinate shared federal and non-federal use of the band. Incumbents comprise the first tier (Incumbent Access) and receive protection from all other users, followed by PALs, the second tier (Priority Access), and General Authorized Access (GAA), the third tier.

As part of the service rules for PALs, the Commission adopted an in-band spectrum aggregation limit of 40 megahertz of the possible 70 megahertz per license area at any given time. This in-band spectrum aggregation limit applies to secondary market transactions, including an assignment or transfer of control involving a PAL. In adopting this cap, the Commission concluded that the benefits of facilitating competition, innovation, and the efficient use of the 3.5 GHz band outweighed any harms of imposing such an aggregation limit. In particular, the Commission recognized that the spectrum aggregation limit will ensure the availability of PALs to at least two users in those geographic areas where there is greatest likelihood of high demand for such spectrum. The limit also provides a minimum degree of diversity among Citizens Broadband Radio Service users that likely will be operating in this band, which is important to encourage innovation in technologies and business models that include access to shared spectrum in a multi-user environment.

The 40 megahertz aggregation limit for PALs is codified under section 96.31 of the Commission's rules and became effective on August 25, 2016. 47 CFR § 96.31; 81 FR 49023. In secondary market transactions involving such licenses, the Commission will apply the criteria under section 20.22(b) of the Commission's rules to attribute partial ownership and other interests related to the applicants to determine whether the transaction, if consummated, complies with the 40 megahertz aggregation limit. 47 CFR § 20.22(b). To implement this requirement, the Commission is currently working to modify the electronic version of the FCC Form 603 in ULS to add a certification via a checkbox. Specifically, to submit the form electronically, an assignee/transferee to a transaction involving a PAL must certify—by checking the box—that the grant of the application would not cause the assignee/transferee to be in violation of the 40 megahertz in-band spectrum aggregation limit set forth under section 96.31 of the Commission's rules, taking into consideration the spectrum attribution rule under section 20.22(b) of the Commission's rules. The assignee/transferee may make the certification/check the box if it has sought a waiver of section 96.31 in connection with the application.

This checkbox will only appear in the form if the assignment/transfer of control involves at least one PAL or some portion thereof. The Commission will submit screenshots of the new/additional screens of FCC Form 603 to OMB once the required modifications to the form described above have been completed.

*Change 2.* On March 18, 2021, the Commission released the 3.45 GHz Second Report and Order, Order on Reconsideration, and Order of Proposed Modification which began implementation of the Beat China by Harnessing Important, National Airwaves for 5G Act of 2020 (3.45 GHz Order). (See Facilitating Shared Use in the 3100-3550 MHz Band, WT Docket No. 19-348, Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, 36 FCC Rcd 5987 (2021).) The statute requires the Commission to start an auction to grant new initial licenses subject to flexible use in the 3450-3550 MHz band by December 31, 2021. The auction started on October 21, 2021, and concluded on January 14, 2022.

In adopting the 3.45 GHz Order, the Commission made available 100 megahertz of mid-band spectrum in the 3.45 GHz band available for flexible use. Like for PALs, the service rules for this band also included an in-band aggregation limit of 40 megahertz. In implementing this in-band aggregation limit, the Commission sought to balance the statutory objectives informing the Commission's design and

implementation of competitive bidding systems because this limit will, for example, help to promote spectrum access and encourage competition in the provision of 5G service, while still supporting the efficient and intensive use of spectrum. For instance, the Communications Act requires the Commission to examine closely the impact of spectrum aggregation on competition, innovation, and the efficient use of spectrum to ensure that spectrum is assigned in a manner that serves the public interest, convenience, and necessity. 47 U.S.C. §§ 303(g), 307, 308(b), 310. Additionally, section 309(j)(3) of the Communications Act provides that, in designing systems of competitive bidding, the Commission must “include safeguards to protect the public interest in the use of the spectrum,” and must seek to promote various objectives, including “promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants,” and promoting the “efficient and intensive use” of spectrum. 47 U.S.C. § 309(j)(3). This in-band aggregation limit will be in effect for four years after the close of the auction, i.e., January 14, 2026.

The 40 megahertz aggregation limit for 3.45 GHz licenses is codified under section 27.1606 of the Commission’s rules and became effective on June 7, 2021. 47 CFR § 27.1606; 86 FR 17920. In secondary market transactions involving such licenses, the Commission will apply the criteria under section 20.22(b) of the Commission’s rules to attribute partial ownership and other interests related to the applicant to determine whether the transaction, if consummated, complies with the 40 megahertz aggregation limit. To implement this requirement, the Commission is currently working to modify the electronic version of the FCC Form 603 in ULS to add a certification via a checkbox. Specifically, to submit the form electronically, an assignee/transferee to a transaction involving a 3.45 GHz license must certify—by checking the box—that the grant of the application would not cause the assignee/transferee to be in violation of the 40 megahertz in-band spectrum aggregation limit set forth under section 27.1606 of the Commission’s rules, taking into consideration the spectrum attribution rule under section 20.22(b) of the Commission’s rules. The assignee/transferee may make the certification/check the box if it has sought a waiver of section 27.1606 in connection with the application.

This checkbox will only appear in the form if the assignment/transfer of control involves at least one 3.45 GHz license or some portion thereof. The Commission will submit screenshots of the new/additional screens of FCC Form 603 to OMB once the required modifications to the form described above have been completed. Consistent with the termination of the in-band spectrum aggregation limit in four years, the certification will no longer be relevant after January 14, 2026.

*Change 3.* On December 29, 2020, the Commission adopted a Report and Order that significantly amended FCC application fees. (*See Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission’s Rules, MD Docket No. 20-270, Report and Order, 35 FCC Rcd 5089 (2020)*). As a result, the Commission will no longer calculate waiver fees according to the number of rule waivers requested, and applicants are only required to indicate that they are requesting a waiver. Accordingly, question 6b, which requests the number of rules involved in the request, is being deleted and is no longer necessary.

These non-substantive changes will not impact on the annual burden hours or the annual cost for this collection.