Sections 101.1403, 101.103(f), 101.1413, 101.1440 101.1417 and 25.139 (MVDDS reporting, recordkeeping and third-party disclosures; NGSO FSS and DBS recordkeeping and third-party disclosures)

3060-1022
August 2025

SUPPORTING STATEMENT

1. The Commission seeks a three year extension of a currently approved information collection under OMB Control Number 3060-1022 from the Office of Management and Budget (OMB).

This collection includes a Part 25 rule and various rules in Part 101 that govern record retention, reporting, and third-party disclosure requirements related to satellite and terrestrial sharing of the 12.2-12.7 GHz band. The satellite operators are Non-Geostationary Orbit Fixed Satellite Service (NGSO FSS) and Direct Broadcast Satellite (DBS) Service. The terrestrial operators are Multichannel Video Distribution and Data Service (MVDDS).

The rule sections discussed below, which OMB previously approved under OMB Control Numbers 3060-1021 and 3060-1022, have not changed. The Part 25 rule that we have consolidated into this collection was section 25.139, which is discussed in paragraph (f) below.

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 retransmission consent requirements of the Communications Act of 1934. Any MVDDS licensee that is an MVPD must obtain the prior express authority of a broadcast station before retransmitting that station's signal, *see* 47 U.S.C. § 325(b)(1), subject to the exceptions in 47 U.S.C. § 325(b)(2).

b. **§ 101.103(f)** requires MVDDS licensees to provide notice of intent to construct a proposed antenna to Non-Geostationary Satellite Orbit Fixed Satllite 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**, as a construction requirement, requires MVDDS licensees to file a showing of substantial service at five and ten years into the initial license term. Substantial service is defined as a "service that is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal." The Commission set forth a safe harbor to serve as a guide to licensees in satisfying the substantial service requirement, as well as additional factors that it would take into consideration in determining whether a licensee satisfies the substantial service standard.

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

f. **§ 25.139**, which the Commission adopted in 2002,[1] requires Non-Geostationary Satellite Orbit (NGSO) Fixed-Satellite Service (FSS) licensees to maintain a subscriber database in a format that can be readily shared to enable MVDDS licensees to determine whether a proposed Multichannel Video Distribution and Data Service (MVDDS) transmitting antenna meets the minimum spacing requirement (set forth in § 101.129, FCC Rules) relative to qualifying, existing NGSO FSS fixed subscriber receivers.[2]

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[1] In 2002, the Commission released a *Memorandum Opinion and Order and Second Report and Order* in ET Docket No. 98-206 (Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2 – 12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Application of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. To Provide A Fixed Service in the 12.2 – 12.7 GHz Band) 67 FR 43031, June 26, 2002 (correcting amendments published by *Order*, ET Docket No. 98-206, 19 FCC Rcd 9727 (MD 2004), 69 FR 31745 (June 7, 2004).

[2] In 2003, the Commission amended § 25.139(a) to clarify that the information NGSO FSS licensees are required to provide MVDDS should be construed narrowly and that only information necessary to achieve the required 10 km separation under § 25.139(b) needs to be provided. *See Fourth MO&O* in ET Docket No. 98-206 (68 Fed. Reg. 43945, July 25, 2003), This clarification did not result in revisions to OMB Control No. 3060-1021.

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 collected or required to be disclosed to ensure that MVDDS licensees meet the broadcast carriage retransmission consent requirements of 47 U.S.C. § 325(b)(1); 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 ensure 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. (a) **Section 101.1403:** The third-party disclosure and reporting requirements for § 101.1403 is 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).

(b) **Section 101.103(f)** require MVDDS licensees to maintain a website of constructed transmitters and to provide pre-construction notice to NGSO FSS licensees operting in 12.2-12.7 GHz of transmitters scheduled for operation within one year including the "in service" dates" and specific technical data. These third-party disclosures, together with the NGSO FSS recordkeeping and disclosures requirements in § 25.139 (see 6.f. below) are necessary to establish the interference protection obligations—if any—of each MVDDS transmitter relative to each qualifying NGSO FSS fixed subscriber earth station. The information sharing requirements are also necessary to facilitate interference avoidance. Accordingly, there is no way to require notification or disclosure-sharing less frequently.

(c) **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 determine whether a licensee has met its construction requirements. In 2015, the Commission granted renewals to ten licensees of a total of 191 MVDDS

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. In 2018 the Commission denied waiver and extension requests and dismissed the renewal applications of three licensees of a total of 22 licenses. Petitions for reconsideration of the 2018 actions are pending. There is no way for the Commission to require less frequent reporting of this information and continue to maintain its regulatory duties.

(d) **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.

(e) **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.

(f) **Section 25.139:** The consequence of not requiring NGSO FSS licensees to maintain a subscriber database in a format that can be readily shared with MVDDS licensees (within ten business days of receiving notification of the location of a proposed MVDDS transmitting antenna) is that NGSO FSS and MVDDS licensees would be unable to determine the interference protection rights of qualified NGSO FSS fixed subscriber earth stations relative to each MVDDS transmitter relative to each qualifying NGSO FSS fixed subscriber earth station andcoordination between NGSO FSS and MVDDS licensees would be significantly delayed, thereby delaying the implementation of the proposed operation and/or increasing the potential for interference.

7. Current data collection is consistent with the guidelines in 5 CFR § 1320.5.

8. The FCC initiated a 60-day comment period which was published in the *Federal Register* on June 10, 2025 (90 FR 24404) 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 **18 respondents** to this collection. Currently, 8 MVDDS licensees (combining commonly owned licensees and not counting lessees)

hold a total of 191 MVDDS licenses. Without prejudice to the outcome of several petitions for reconsideration of terminated licenses, for purposes of this submission, we are assuming up to 10 MVDDS respondents holding a total of 200 licenses. We estimate up to 6 NGSO FSS respondents and 2 DBS respondents. Our explanation of the estimates for each item follows the chart.

Annual Burden

12.	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)	10	20 (Annually)	1	**200**
c.	§ 101.1413	1	8 (On occasion)	0.5	**4**
d.	§ 101.1440[3]	10 (MDDS) 2 (DBS)	4 4 (On occasion)	40 25	1,600 + <u>200</u> **1,800**
e.	§ 101.1417	10	1 (Annually)	1	**10**
f.	§ 25.139[4]	6 (Recordkeeping) 6 (Third party disclosures)	2,000 (On occasion) 200 (On occasion)	.25 .25	3,000 + <u>300</u> **<u>3,300</u>**
	TOTAL	**18**			**5,316 hours**

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 $48.65[5] per hour (Management Analyst) = $97.30.

[3] See 12-d.
[4] See 12-f.
[5] U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2024, 13-1111 Management Analysts, National estimates for this occupation. The same hourly amount will be used in 12-b to e.

12-b. §101.103(f). In 2020, we updated our estimates because the Commission authorized new NGSO FSS operators in the 12.2-12.7 GHz band. We estimate that each MVDDS licensee will notify NGSO FSS operators of its intent to construct or modify an average of one proposed antenna site annually in each of 200 license areas. For purposes of this submission, an equal distribution has not changed among the 10 MVDDS licensees, i.e., an average of 20 coordination per MVDDS licensee.

Annual Burden: 10 respondents x 20 response each x 1 hour per response = 200 hours.

In-house Staff Cost: (10 respondents x 20 response each x 1 hour = 200 hours) x $48.65 per hour (Management Analyst) = $9,730.00.

12-c. §101.1413. We will not revise our estimates since the last OMB information approval, because the showing of substantial service due during the next three-years approval are not required from most MVDDS licensees.

Annual Burden: 1 respondent x 8 response each x 0.5 hour per response = 4 hours.

In-house Staff Cost: (1 respondent x 8 response each x 0.5 hour = 4 hours) x $48.65 per hour (Management Analyst) = $194.60

12-d. §101.1440. We estimate that each MVDDS licensee will notify NGSO FSS operators of its intent to construct or modify an average of one proposed antenna site annually in each of 200 license areas. For purposes of this submission, we are assuming an equal distribution among the 10 MVDDS licensees, i.e., an average of 20 coordination per MVDDS licensee. For each coordination we estimate that an MVDDS licensee 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 a new or modified MVDDS transmitter. We estimate up to two DBS licensees taking 25 hours per coordination to provide responsive data to MVDDS licensees. There is one MVDDS licensee in each of 200 license areas.

Annual Burden: **10 MVDDS licensees x 4coordination x 40 hours = 1,600 hours.**
Annual Burden: **2 DBS licensees x 4 coordination x 25 hours = 200 hours.**

Total: **1,600 + 200 hours = 1,800 total hours.**

In-house Staff Cost: (10 MVDDS licensees x 4 coordination x 40 hours) + (2 DBS licensees x 4 coordination x 25 hours) x $48.65 per hour (Management Analysis) = $87,570.00.

12-e. §101.1417.

Annual Burden: 10 respondents x 1 response each x 1 hour = 10 hours.

In-house Staff Cost: (10 respondents x 1 response each x 1 hour) x $48.65 per hour (Management Analysis) = $486.50.

12-f. § 25.139.

In 2000-2002, the FCC authorized six NGSO FSS operators in the 12.2-12.7 GHz band but all of these authorizations were later surrendered or terminated. During the past three years, however, the FCC authorized five new NGSO FSS operators in the 12.2-12.7 GHz band and one application is pending. In an abundance of caution and without prejudice to the outcome of the pending application, we estimate six NGSO FSS respondents.

Recordkeeping: Six NGSO FSS licensees must maintain a database in a format that can be readily shared with MVDDS licensees for the purpose of determining compliance with the MVDDS transmitting antenna spacing requirement relating to qualifying NGSO FSS subscriber receivers (as defined in section 101.129). For each qualifying receiver, an NGSO FSS respondent will enter location and any other data sufficient to meet the third-party disclosure requirement discussed below. NGSO FSS operators often obtain blanket authorizations for up to 1 million subscriber earth stations but estimating the number of qualified fixed subscriber earth stations that will be placed in operation over the next three years that NGSO FSS operators will deem necessary to enter into a database, e.g., an Excel file, to share with MVDDS licensees under § 25.139 is uncertain. For purposes of this submission, we estimate that each NGSO FSS respondent will enter an annual average of 2000 fixed subscriber earth stations into a database.

Annual Burden: 6 respondents x 2,000 data entries **x .**25 minutes per entry **= 3,000 hours.**

In-house Staff Cost: (6 respondents x 2,000 data entries x .25 minutes per entry) x $19.94 per hour (Data Entry)[6] **= $59,820.**

Third party disclosures: on occasion, we estimate that up to 6 NSSO FSS respondents will disclose earth station data to an MVDDS licensee an average of 200 times annually.

Annual Burden: 6 respondents x 200 disclosures x 25 minutes per entry **= 300 hours.**

In-house Staff Cost: (6 respondents x 200 disclosures x .25 minutes per entry) x $61.34 per hour (Electronic Engineer)[7] **= $18,402.00.**

Total In-house Staff Cost: $59.820.00 (Recordkeeping) + $18,402.00 (Third-party disclosures) = $78.222.00.

[6] U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2024, 43-9020, Data Entry and Information Processing Workers, National estimates for this occupation.
[7] U.S. Bureau of Labor Statistics, Occupational Employment and Wages, May 2024, 17-2072 Electronics Engineers, Except Computer, National estimates for this occupation.

TOTAL NUMBER OF RESPONDENTS: 10 MVDDS + 6 NGSO FSS + 2 DBS = 18 Licensees.

TOTAL NUMBER OF ANNUAL RESPONSES: 1 + 20 + 8 + 4 + 4 + 1 + 2,200 = 2,238.

TOTAL ANNUAL BURDEN: 2 + 200+ 4 + 1,800 + 10 + 3,300 = 5,316 HOURS.

IN-HOUSE STAFF COST: $97.30+ $9,730 + $194.60 + $87,570 + $486.50 + 78,222 = $176,300.40

13. Total Cost to the respondents (Consultants): There is no cost to the respondents for this collection of information.

14. Cost to the Federal Government: None.

15. The Commission does not have any program changes or adjustments 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, a list of OMB approved information collections is posted on OMB's website.

18. There are no exceptions to the Certification Statement.

A. <u>Collection of Information Employing Statistical Methods:</u>

No statistical methods are employed.