

SUPPORTING STATEMENT

A. Justification:

1. On April 25, 2007, the Commission adopted a Report and Order, in WT Docket Nos. 96-86, 01-309, 03-264, 06-150, 06-169; CC Docket No. 94-102; and PS Docket No. 06-229; FCC 07-72, as referred to as the "*April 2007 Report and Order*", revising certain rules for the 700 MHz band as previously set out in its December 12, 2001 Report and Order in GN Docket No. 01-74, and its March 9, 2000, Second Report and Order in WT Docket No. 99-168.

These rule changes modify two information collections (ICs) in OMB Control Number 3060-1008 (Lower 700 MHz Service Rules) and OMB Control Number 3060-1027 (Guard Band Lease Agreements) which we now merge into one comprehensive IC (3060-1008) due to the merging of the relative dockets in this proceeding. Upon OMB approval, the Commission will discontinue OMB Control Number 3060-1027 and retain OMB Control Number 3060-1008 as the active information collection number in OMB's inventory.

In the area of Lower 700 MHz service rules, the *April 2007 Report and Order* made two changes. First, 47 CFR Section 27.50(c)(5) is now designated as 27.50(c)(8) and its scope is changed slightly. The section previously covered stations operating "at a power level greater than 1 kW ERP and is now "under the provisions of (c)(6)," which defines the group as: "transmitting a signal at an ERP greater than 1000 watts and greater than 1000 watts/MHz" or in rural counties "if transmitting a signal with an ERP greater than 2000 watts and greater than 2000 watts/MHz."

Specifically: Lower 700 MHz licensees intending to operate a base or fixed station at a power level permitted under the provisions of paragraph (c)(6) must provide advanced notice of such operation to the Commission and to licensees authorized in their area of operation. Licensees who must be notified are all licensees authorized under this part to operate on an adjacent spectrum block within 75 km of the base or fixed station. Notifications must provide the location and operating parameters of the base or fixed station, including the station's ERP, antenna coordinates, antenna height above ground, and vertical antenna pattern, and such notifications must be provided at least 90 days prior to the commencement of station operation.

Second, in relation to lower 700 MHz service rules, in the *April 2007 Report and Order*, the Commission, in response to proposals by parties seeking greater power limits for rural area operations, permits power levels of up to 2 kW/MHz ERP in rural areas. In an effort to be consistent with its Part 27 rules with respect to the Advanced Wireless Service (AWS), the Commission allowed rural licensees operating with bandwidths less than one megahertz to operate at power levels up to 2 kW ERP over their bandwidth, but at the same time imposed on licensees operating at such increased power levels a requirement to coordinate with other licensees in nearby areas similar to that requirement applied to similarly-situated AWS licensees under § 27.50(d)(1) of its rules.

Note: The notification requirement in § 27.50(c)(5) includes a material change to the collection instrument in that more stations may be captured by the regulation if they take advantage of the new power limits.

Specifically: Lower 700 MHz licensees seeking to operate a fixed or base station located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal at an ERP greater than 1000 watts must:

(i) coordinate in advance with all licensees authorized to operate in the 698-764 MHz and 776-794 MHz bands within 120 kilometers (75 miles) of the base or fixed station;

(ii) coordinate in advance with all regional planning committees, as identified in §90.527 of this chapter, with jurisdiction within 120 kilometers (75 miles) of the base or fixed station.

Finally, in relation to the Guard Bands service rules, the *April 2007 Report and Order* replaced the “band manager” leasing regime which previously applied to Guard Bands licensees with the spectrum leasing policies and rules adopted in the Secondary Markets proceeding in WT Docket 00-230 to provide Guard Band licensees and spectrum users additional flexibility to enter into spectrum leasing agreements. Because the Commission will now apply the different spectrum leasing rules the requirement previously found in IC 3060-1027, pursuant to 47 CFR 27.602, was revised to reflect the change in leasing policies.

Specifically: Guard Band licensees may now enter into spectrum leasing arrangements under Part 1 of the Commission’s rules regarding the use of their licensed spectrum by spectrum lessees. The spectrum lease agreement between the licensee and the spectrum lessee must specify in detail the operating parameters of the spectrum lessee’s system, including power, maximum antenna heights, frequencies of operation, base station location(s), area(s) of operation, and other parameters specified in Commission rules for the use of spectrum identified in §27.50(b)(1) and (b)(2). Further, the spectrum lease agreement must require the spectrum lessee to use Commission-approved equipment where appropriate and to complete post-construction proofs of system performance prior to system activation.

Pursuant to 47 CFR 27.602, Guard Band Managers are required to enter into written agreements regarding the use of their licensed spectrum by others, subject to certain conditions outlined in the rules. Section 27.602(h) requires Guard Band Managers to maintain their written agreements with spectrum users at their principal place of business, and retain such records for at least two years after the date such agreements expire. Such records shall be kept current and be made available upon request for inspection by the Commission or its representatives.

As noted on Form OMB 83-I, this information collection does not affect individuals or households. Thus, this information collection is not impacted by the Privacy Act.¹

¹ OMB Memorandum M-03-22, Memorandum for Heads of Executive Departments and Agencies, *OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002* (Sept. 26, 2003).

Statutory authority for this collection of information is contained in 47 U.S.C. §§ 151, 154(i) and 157, as amended.

2. The service rules have been designed to promote the development and rapid deployment of new technologies, products, and services for the benefit of the public; to promote economic opportunity and competition; and to create an efficient and intensive use of the spectrum by promoting the objectives identified in 47 U.S.C. § 309(j), and to alleviate any problems associated with the increase power limits available to rural licensees.
3. The information will be submitted electronically in the Universal Licensing System (ULS) and will be provided in a written notice to certain other licensees (third parties) authorized in adjacent areas of operation. All information that is to be submitted electronically via ULS has been accounted for under the information collection requirements in OMB Control Number 3060-0798.
4. This agency does not impose a similar information collection on licensees affected by this collection. There is no similar data available.
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 its information requirements to those absolutely necessary for conclusively determining compliance with its procedures.
6. This collection is required for three groups of licensees: 1) Lower 700 MHz licensees intending to operate a base or fixed station at a power level greater than 1000 watts and greater than 1000 watts/MHz (or, in rural counties, if transmitting a signal with an ERP greater than 2000 watts and greater than 2000 watts/MHz.); 2) Lower 700 MHz licensees seeking to operate a fixed or base station located in a rural county and transmitting a signal at an ERP greater than 1000 watts; and 3) Guard Band licensees and spectrum lessees.
7. No known circumstances require this collection to be conducted in a manner inconsistent with the guidelines in 5 C.F.R. § 1320.6.
8. The Commission published a 60 day notice for this revised information collection on August 1, 2007 (72 FR 42086). No comments were received as a result of the notice. A reference to the notice is contained in this submission to the OMB.
9. Respondents will not receive any payments.
10. There is no need for confidentiality.
11. This collection does not address any private matters of a sensitive nature.
12. As of the date of this submission, 60 respondents are subject to the reporting requirement in Section 27.50(c)(8). The average burden on these respondents will be 30 minutes per response via clerical personnel @ GS-7/5 pay level.

There are approximately 458 respondents who are subject to the reporting requirement in Section 27.50(c)(5). The average burden on these respondents will also be 30 minute per response via clerical personnel @ GS 7/5 pay level.

$$60 + 458 = 518 \text{ (respondents)} \times 0.5 \text{ hours} = \mathbf{259 \text{ hours.}}$$

The Guard Bands aspect of this combined information collection remains unchanged. Therefore, we transfer our previously submitted estimate of 52 Major Economic Areas and 6 Economic Area Groups that have 2 Frequency blocks and 2 Nationwide Frequencies which totals up to 62 respondents. For Section 27.602, we estimate the time to draw up an agreement between Band Managers is 6 hours.

$$62 \text{ (respondents)} \times 6 \text{ hours} = \mathbf{372 \text{ hours.}}$$

Therefore, the total number of respondents is: $518 + 62 = 580$ total respondents.

The total annual burden is: $259 + 372 = 631$ hours.

Total "Annual" Burden Hours: 631 hours.

13. We assume that the respondents will use in-house clerical personnel, whose earnings level is equivalent on average to the GS-7/5 level at \$22.40 per hour, to prepare this information. We presume that it will take these respondents approximately 30 minutes per the power and antenna height limits recordkeeping requirement, and 6 hours per the Guard Bands reporting requirement.

$$631 \text{ (hrs.)} \times \$20.44 \text{ (clerical)} = \$12,897.64$$

$$\text{Total Burden Cost} = \$12,898.00 \text{ (rounded off)}$$

14. There is no cost to the Federal government.
15. The Commission is revising this collection due to the fact that the notification requirement in § 27.50(c)(5) was revised in the *April 2007 Report and Order* which includes a material change to this collection instrument. Further, the Commission is incorporating the requirements contained in OMB Control Number 3060-1027 and combining them into this IC (OMB Control Number 3060-1008) now that both collections are merged under one proceeding. Therefore, there is an increase in the number of respondents/responses and an increase in the hourly burden.
16. This data will not be published for statistical use.
17. No expiration date will be displayed.
18. There are exceptions to Item 19. The 60 day notice contained inaccurate estimates for the number of respondents/responses. However, the Commission has published a 30 day notice on July 31, 2008 (73 FR 49458) with the correct estimates while this information collection is being reviewed by the OMB.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.