

Title: Section 74.786, Digital Channel Assignments; Section 74.787, Digital Licensing; Section 74.790, Permissible Service of Digital TV Translator and LPTV Stations; Section 74.794, Digital Emissions, and Section 74.796, Modification of Digital Transmission Systems and Analog Transmission Systems for Digital Operation

SUPPORTING STATEMENT

A. Justification

1. On December 22, 2008, the Commission adopted the *Notice of Proposed Rulemaking (NPRM)*, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations, MB Docket No. 08-253, FCC 08-278. This document proposes rules and policies for a new replacement digital low power television (LPTV)¹ translator² service that would permit full-service television stations to continue to provide service to viewers within their coverage area who have lost service as a result of those stations' digital transition. Due to the Commission proposing this new service, the *NPRM* proposes a rule entailing a PRA burden on licensees. The new proposed rule that contains the information collection requirement is as follows:

47 CFR Section 74.787(a)(i)(5) states that an application for a replacement digital television translator may be filed³ by a full-service television station that can demonstrate that a portion of its analog service area will not be served by its full, post-transition digital facilities. The service area of the replacement translator shall be limited to only a demonstrated loss area. **(Emergency OMB approval is needed for this new proposed information collection requirement – filing of attachments to FCC Form 346 pursuant to Section 74.787(a)(i)(5)).**

History:

On September 9, 2004, the Commission adopted a *Report and Order (R&O)*, In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03-185, FCC 04-220. This document established rules and policies for LPTV and TV translator stations and modifies certain rules applicable to digital Class A TV stations (Class A).⁴ Due to the Commission initiating this new

¹ The low power television service consists of LPTV, TV translator, and television booster stations. LPTV stations may radiate up to 3 kilowatts of power for stations operating on the VHF band (*i.e.*, channels 2 through 13), and 150 kilowatts of power for stations operating on the UHF band (*i.e.*, channels 14 through 69). By comparison, full-service stations on VHF channels 7 through 13 radiate up to 316 kilowatts of power, and stations on the UHF channels radiate up to 5,000 kilowatts of power. LPTV signals typically extend approximately 15 to 20 miles, while the signals of full-service stations can reach as far as 60 to 80 miles.

² A TV translator station is a low power television broadcast station that receives the signal of a television station and simultaneously retransmits it on another TV channel. Television translators are technically equivalent to LPTV stations in most respects and are licensed in the same manner. Television translator stations are intended to provide service to areas where direct reception of full-service broadcast stations is unsatisfactory because of distance or intervening terrain obstructions.

³ The applicant will file an attachment to FCC Form 346 (FCC Form 346 is approved under OMB control number 3060-0016) when filing an application for a replacement digital television translators. The attachment must demonstrate that a portion of its analog service area will not be served by its full, post-transition digital facility and that the service area of the replacement digital television translator is limited to the demonstrated loss area.

⁴ In the Community Broadcasters Protection Act of 1999 ("CBPA"), Congress directed the Commission to establish a Class A television service to provide a measure of primary status to certain LPTV stations so that those stations could continue to operate during and after the DTV transition. In order to qualify for Class A status, an LPTV

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service, the *R&O* adopted a number of rules and regulations entailing PRA burdens on licensees and manufacturers. The rules have already been approved by the Office of Management and Budget (OMB)⁵ and are as follows:

a. **47 CFR Section 74.786(d)** requires that digital LPTV and TV translator stations assigned to these channels as a companion digital channel⁶ demonstrate that a suitable in-core⁷ channel is not available. The demonstration will require that the licensee conduct a study to verify that an in-core channel is not available.

b. **47 CFR Section 74.786(d)** further requires that digital LPTV and TV translator stations proposing use of channels 52-59 notify all potentially affected 700 MHz wireless licensees of their proposed operation not less than 30 days prior to the submission of their application. These applicants must notify wireless licensees of the 700 MHz bands comprising the same TV channel and the adjacent channel within who licensed geographic boundaries the digital LPTV or TV translator station is proposed to be located, and they must also notify licensees of co-channel⁸ and adjacent channel spectrum⁹ whose service boundaries lie within 75 miles and 50 miles respectively of their proposed station location.

c. **47 CFR Section 74.786(e)** allows assignment of UHF channels 60 to 69 to digital LPTV or TV translator stations for use as a digital conversion channel¹⁰ provided that stations proposing use of these channels notify all potentially affected 700 MHz wireless licensees of their proposed operation not later than 30 days prior to the submission of their application.

d. **47 CFR Section 74.786(e)** further provides that digital LPTV and TV translator stations proposing use of UHF channel 63, 64, 68, and 69 (public safety frequencies)¹¹ as a digital conversion channel must secure a coordinated spectrum use agreement¹² with the pertinent 700 MHz public safety regional planning committee and state administrator prior to the submission of their application.

station was required to have broadcast a minimum of 18 hours per day and to broadcast an average of at least 3 hours of locally produced programming per week during the three month period preceding enactment of the CBPA.

⁵ These rules remain unchanged since last approved by OMB.

⁶ Companion digital channel refers to a digital channel authorized to an existing low power television or television station to be associated with the station's analog, non-digital channel.

⁷ The term "suitable in-core channel" refers to a channel that would enable a digital low power television or television translator station to produce a protected service area comparable to that of its associated analog LPTV or TV translator station. The term "companion digital channel" refers to a digital channel authorized to an existing low power television or television station to be associated with the station's analog, non-digital channel. The term "digital conversion channel" refers to a channel previously authorized to an existing LPTV or TV translator station that has been converted to digital operation.

⁸ Same channel as the operating channel.

⁹ A channel located within one channel as the operating channel.

¹⁰ This is a channel chosen by a television broadcaster for use with their digital television facilities.

¹¹ UHF channels 63, 64, 68, and 69.

¹² An agreement entered into between a television broadcaster and a public safety entity.

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- e. **47 CFR Section 74.786(e)** Digital LPTV and TV translator stations proposing use of channels 62, 65, and 67 must notify the pertinent regional planning committee and state administrator of their proposed operation not later than 30 days prior to submission of their application.
- f. **47 CFR Section 74.787(a)(2)(iii)** provides that mutually exclusive LPTV and TV translator applicants for companion digital stations will be afforded an opportunity to *submit* in writing to the Commission, settlements and engineering solutions to resolve their situation.
- g. **47 CFR Section 74.787(a)(3)** provides that mutually exclusive applicants applying for construction permits for new digital stations and for major changes to existing stations in the LPTV service will similarly be allowed to *submit* in writing to the Commission, settlements and engineering solutions to rectify the problem.
- h. **47 CFR Section 74.787(a)(4)** provides that mutually exclusive displacement relief applicants filing applications¹³ for digital LPTV and TV translator stations may be resolved by submitting settlements and engineering solutions in writing to the Commission.
- i. **47 CFR Section 74.790(f)** permits digital TV translator stations to originate emergency warnings over the air deemed necessary to protect and safeguard life and property, and to originate local public service announcements (PSAs) or messages seeking or acknowledging financial support necessary for its continued operation. These announcements or messages shall not exceed 30 seconds each, and be broadcast no more than once per hour.
- j. **47 CFR Section 74.790(e)** requires that a digital TV translator station shall not retransmit the programs and signal of any TV broadcast or DTV broadcast station(s) without prior written consent of such station(s). A digital TV translator operator electing to multiplex¹⁴ signals must negotiate arrangements and obtain written consent of involved DTV station licensee(s).
- k. **47 CFR Section 74.790(g)** requires a digital LPTV station who transmits the programming of a TV broadcast or DTV broadcast station received prior written consent of the station whose signal is being transmitted.
- l. **47 CFR Section 74.794** mandates that digital LPTV and TV translator stations operating on TV channels 22-24, 32-36, 38, and 65-69 with a digital transmitter not specifically FCC-certificated for the channel purchase and utilize a low pass filter¹⁵ or equivalent device rated by its manufacturer to have an attenuation¹⁶ of at least 85 dB in the GPS¹⁷ band. The licensees must

¹³ This refers to two or more applications for displacement relief that cannot both be granted because of potential interference.

¹⁴ Multiplex or multi-casting is a feature of DTV that will allow broadcasters to offer multiple standard definition TV programs in a single digital signal.

¹⁵ A Low Pass Filter is an electronic filter used to block unwanted high frequency signals while allowing lower frequency signals to pass through.

¹⁶ Signal strength over a certain distance.

¹⁷ This is a Global Positioning Service.

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retain with their station license a description of the low pass filter or equivalent device with the manufacturer's rating or a report of measurements by a qualified individual.

m. **47 CFR Section 74.796(b)(5)** requires digital LPTV or TV translator station licensees that modify their existing transmitter by use of a manufacturer-provided modification kit would need to purchase the kit and must notify the Commission upon completion of the transmitter modifications. In addition, a digital LPTV or TV translator station licensees that modify their existing transmitter and do not use a manufacturer-provided modification kit, but instead perform custom modification (those not related to installation of manufacturer-supplied and FCC-certified equipment) must notify the Commission upon completion of the transmitter modifications and shall certify compliance with all applicable transmission system requirements.

n. **47 CFR Section 74.796(b)(6)** provides that operators who modify their existing transmitter by use of a manufacturer-provided modification kit must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the nature of the modifications, installation and test instructions, and other material provided by the manufacturer, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission. In addition, digital LPTV and TV translator operators who custom modify their transmitter must maintain with the station's records for a period of not less than two years, and will make available to the Commission upon request, a description of the modifications performed and performance tests, the results of performance-tests and measurements on the modified transmitter, and copies of related correspondence with the Commission.

o. **Protection of Analog LPTV.** In situations where protection of an existing analog LPTV or translator station without a frequency offset prevents acceptance of a proposed new or modified LPTV, TV translator, or Class A station, the Commission requires that the existing non-offset station install at its expense offset equipment and notify the Commission that it has done so, or, alternatively, negotiate an interference agreement with the new station and notify the Commission of that agreement.

p. **Resolving Channel Conflict.** The Commission requires that wireless licensees operating on channels 52-59 and 60-69 notify (by certified mail, return receipt requested) a digital LPTV or TV translator licensee operating on the same channel of first adjacent channel of its intention to initiate or change wireless operations and the likelihood of interference from the LPTV or translator station within its licensed geographic service area. This notification should describe the facilities, associated service area, and operation of the wireless licensee with sufficient detail to permit an evaluation of the likelihood of interference.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in 47 U.S.C. 301 of the Communications Act of 1934, as amended.

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2. Most of the collections of information involved, whether reporting, recordkeeping, will be used by licensees and by the Commission to ensure the opportunity for harmful interference between licensees, broadcast and wireless, will be kept to a minimum. Other rules in this submission offer certain elective digital services, such as programming public service announcements
3. The Commission expects that automatic information technology will be used where appropriate in this collection of information.
4. The Commission does not impose a similar information collection on the respondents. There is no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize burdens on all respondents, regardless of size. The Commission is aware that many licensees are small entities who operate with limited budgets and has provided such smaller entities with as much flexibility and minimum increased burden as possible. For example, low power broadcasters are allowed additional time (as compared to full-service broadcasters) to transition from analog to digital service.
6. DTV is a new service which potentially offers many benefits to licensees and prospective licensees and to the viewing public.
7. No special circumstances exist with this collection of information.
8. The Commission filed a request with OMB to waive Federal Register notice seeking public comment for the new information collection requirements contained in this supporting statement due to short time frame provided for the Commission to act to the filing requirement contained in FCC 08-278, and because PRA approval is needed to allow stations to make filings in early January 2009.
9. Respondents will not receive any payments.
10. There is no need for confidentiality with this collection of information.
11. This collection of information does not address any private matters of a sensitive nature.
12. The Commission estimates the burdens as follows:

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<u>Requirements or Rule Sections</u>	<u>Number of Responses</u>	<u>Respondent's Burden Hour</u>	<u>Total Burden Hrs</u>	<u>Hrly. Cost</u>	<u>Total In-House Cost</u>
a. Sec. 74.786(d)	352	4	1,408	\$50	\$ 70,400
b. Sec. 74.786(d)	724 ¹⁸	1	724 ¹⁹	\$50	\$ 35,200
c. Sec. 74.786(e)	696	1	696	\$50	\$ 34,800
d. Sec. 74.786(e)	268	2	536	\$50	\$ 26,800
e. Sec. 74.786(e)	964	3	2,892	\$125	\$361,500
f. Sec. 74.787(a)(2)(iii)	1,440	3	4,320	\$50	\$216,000
g. Sec. 74.787(a)(3)	1,000	3	3,000	\$50	\$150,000
h. Sec. 74.787(a)(4)	1,000	3	3,000	\$50	\$150,000
i. Sec. 74.787(a)(5)(i)*	100 ²⁰	1	100 ²¹	\$50	\$ 5,000
j. Sec. 74.790(f)	4,000	1	4,000	\$50	\$200,000
k. Sec. 74.790(e)	4,000	1.75	7,000	\$50	\$350,000
l. Sec. 74.790(g)	4,236	1	4,236	\$50	\$211,800
m. Sec. 74.794	750	0.50	375	\$50	\$ 18,750
n. Sec. 74.796(b)(5)	3,000	1.5	4,500	\$50	\$225,000
o. Sec. 74.796(b)(6)	1,500	1	1,500	\$50	\$ 75,000
p. Protect. analog LPTV	750	3	2,250	\$50	\$112,500
q. Resolving channel conflicts	<u>10,000</u>	1.5	<u>15,000</u>	\$50	<u>\$750,000</u>
TOTALS:	34,780		55,537		\$3,992,750
	(responses)		(Burden Hours)		(In-house Cost)

Total Number of Respondents: 8,533

100 Full Service TV Stations

2,118 LPTV Stations

¹⁸ FCC 08-278 states that we further propose requiring stations seeking to replacement translators on channels 52-59 to provide the notifications to wireless licensees that we adopted for low power television and TV translator stations seeking to flash cut or a digital companion channel on channel 52-59. Therefore, The Commission has accounted for an estimated additional 20 responses (notifications) to be added to this information collection pursuant to Section 74.786(d) in anticipation that the proposed information collection requirement contained in FCC 08-278 will be made final by the adoption of a Report and Order.

¹⁹ The Commission has accounted for an additional 20 burden hours to be added to this information collection in anticipation that the proposed information collection requirement contained in FCC 08-278 will be made final by the adoption of a Report and Order.

²⁰ The Commission has accounted for an additional 100 burden hours to be added to this information collection in anticipation that the proposed information collection requirement contained in FCC 08-278 will be made final by the adoption of a Report and Order.

²¹ The Commission has accounted for an additional 100 burden hours to be added to this information collection in anticipation that the proposed information collection requirement contained in FCC 08-278 will be made final by the adoption of a Report and Order.

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5,706 Translator Stations

609 Class A Stations**8,533 Full Service TV Stations, LPTV, TV Translator, and Class A Stations****Total Number of Responses: 34,780****Total Annual Burden Hours: 55,537 hours****Total "In-house" Cost: \$3,992,750**

13. Annual Cost Burden: We assume that the respondent would use a consulting engineer (\$150/hour) to conduct the study under rule section 47 CFR Section 74.786(d) and engineer showings under 47 CFR Section 74.787(a)(5)(i). In addition, we have also listed start-up costs associated with this information collection that is still on-going since the DTV transition has not been completed to date.

1. Section 74.786(d)	1,408 engineering hours x \$150/hour =	\$ 211,200
2. Section 74.787(a)(5)(i)	200 engineering hours x 150/hour =	\$ 30,000
3. Section 74.790(e)	1,000 purchases x \$15,000/purchase =	\$15,000,000
4. Section 74.790(f)	4,000 purchases x \$8,000/purchase =	\$32,000,000
5. Section 74.794	7,250 purchases x \$1,248/purchase =	\$ 9,048,000
6. Section 74.796(b)(6)	1,125 purchases x \$5,000/purchase =	\$
5,625,000		
7. Protection of analog stations	725 purchases x \$10,000/purchase =	\$ 7,250,000
8. Resolving channel conflicts	7,000 purchases x \$3,800/purchase =	<u>\$26,600,000</u>
Total Annual Cost Burden:		\$95,764,200²²

14. Cost to the Federal Government: The Commission will use engineering staff at the GS-14, step 5 grade level (\$47.99/hour) to review attachments to FCC Form 346 pursuant to Section 74.787(a)(5)(i), settlement agreements and technical issues. Industry Analysts at the GS-13, step 5 grade level (\$40.61/hour) will review certain notification issues. The average processing time for this work is 0.5 to 2 hours.

1,720 settlement agreements x 2 hours x \$47.99/hour	=	\$165,085.60
100 attachments pursuant to Section 74.787 x 1 hour x \$47.99/hour	=	\$ 4,799.00
1,520 submissions with notification issues x 0.50 hours x \$40.61/hour	=	<u>\$ 30,863.60</u>
		\$200,748.20
30% overhead	=	<u>\$ 60,224.46</u>
Total Cost to the Federal Government:		\$260,972.66

15. There will be program changes of +120 annual burden hours and +\$30,000 to the annual cost burden if the proposed information collection requirement contained in FCC 08-278 is made

²² If the proposed information collection requirement contained in FCC 08-278 is made final by the adoption of a Report and Order, a cost burden of \$30,000 will be added to this information collection.

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final by the adoption of a Report and Order by the Commission. There are no adjustments to this information collection.

16. The data will not be published for statistical use.

17. The expiration date of OMB approval for this information collection will be displayed at 47 CFR 0.408.

18. There are no other exceptions to the Certification Statement.

B. Collections of Information employing statistical methods:

No statistical methods are employed.