

SUPPORTING STATEMENT

A. Justification

On August 3, 2012, the Commission released a Notice of Proposed Rulemaking, In the Matter of Cable Television Technical and Operational Requirements, MB Docket No. 12-217; FCC 12-86. This rulemaking proposes to revise the information collection requirements that support the Commission's cable television proof-of-performance rules that would be codified at 47 CFR 76.601, as required by the 1992 Cable Act at 47 USC 624(e). Currently, the Commission's rules are designed for analog transmission; the Notice of Proposed Rulemaking proposes creation of equivalent, digital rules. In recent years, operators transitioning away from analog cable technology have no longer been able to perform proof-of-performance testing on those systems or portions of systems. By creating equivalent, digital rules, the NPRM proposes to once again require the majority of the cable industry to meet standards. Further, this NPRM proposes the creation of a streamlined waiver process by which systems that cannot comply with the Commission's proposed rules may submit an alternate plan to the Commission.

The proposed information collection requirements for this collection are as follows:

47 CFR Section 76.601(b) requires the operator of each cable television system shall conduct complete performance tests of that system at least twice each calendar year (at intervals not to exceed seven months), unless otherwise noted below. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards set forth in §76.605 and shall be as follows:

(1) For cable television systems with 1,000 or more subscribers but with 12,500 or fewer subscribers, proof-of-performance tests conducted pursuant to this section shall include measurements taken at six (6) widely separated points. However, within each cable system, one additional test point shall be added for every additional 12,500 subscribers or fraction thereof (e.g., 7 test points if 12,501 to 25,000 subscribers; 8 test points if 25,001 to 37,500 subscribers, etc.). In addition, for technically integrated portions of cable systems that are not mechanically continuous (e.g., employing microwave connections), at least one test point will be required for each portion of the cable system served by a technically integrated hub. The proof-of-performance test points chosen shall be balanced to represent all geographic areas served by the cable system and should include at least one test point in each local franchise area. At least one-third of the test points shall be representative of subscriber terminals most distant from the system input and from each microwave receiver (if microwave transmissions are employed), in terms of cable length. The measurements may be taken at convenient monitoring points in the

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cable network: provided, that data shall be included to relate the measured performance of the system as would be viewed from a nearby subscriber terminal. An identification of the instruments, including the makes, model numbers, and the most recent date of calibration, a description of the procedures utilized, and a statement of the qualifications of the person performing the tests shall also be included.

(2) Proof-of-performance tests to determine the extent to which a cable television system complies with the standards set forth in § 76.605(b)(3), (4), and (5) shall be made on each of the National Television System Committee (NTSC), or the analog television broadcast standard, or similar video channels of that system. Unless otherwise noted, proof-of-performance tests for all other standards in § 76.605 (b) shall be made on a minimum of five (5) channels for systems operating a total activated channel capacity of less than 550 MHz, and ten (10) channels for systems operating a total activated channel capacity of 550 MHz or greater. The channels selected for testing must be representative of all the channels within the cable television system.

(i) The operator of each cable television system shall conduct semi-annual proof-of-performance tests of that system, to determine the extent to which the system complies with the technical standards set forth in § 76.605(b)(4) as follows. The visual signal level on each channel shall be measured and recorded, along with the date and time of the measurement, once every six hours (at intervals of not less than five hours or no more than seven hours after the previous measurement), to include the warmest and the coldest times, during a 24-hour period in January or February and in July or August.

(ii) The operator of each cable television system shall conduct triennial proof-of-performance tests of its system to determine the extent to which the system complies with the technical standards set forth in § 76.605 (b)(11).

(3) Proof-of-performance tests to determine the extent to which a cable television system complies with the standards set forth in § 76.605(c)(1) shall be made on each of the Quadrature Amplitude Modulation (QAM), or the digital cable transmission standard, or similar video channels of that system. Unless otherwise as noted, proof-of-performance tests for all other standards in § 76.605(c) shall be made on a minimum of five (5) channels for systems operating a total activated channel capacity of less than 550 MHz, and ten (10) channels for systems operating a total activated channel capacity of 550 MHz or greater. The channels selected for testing must be representative of all the channels within the cable television system.

(4) For cable televisions systems which operate both NTSC or similar and QAM of similar channels, proof-of-performance tests to determine the extent to which the cable televisions system complies with § 76.605(b)(1), (2), (6)-(11) and 76.605(c)(1) shall be apportioned relative

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to the proportion of channels allocated to each transmission type, except that at no time shall less than two channels of a particular type be tested.

47 CFR Section 76.605(e) requires that cable television systems distributing signals by methods other than 6 MHz NTSC or similar analog channels or 6 MHz QAM or similar channels on conventional coaxial or hybrid fiber-coaxial cable systems and which, because of their basic design, cannot comply with one or more of the technical standards set forth in paragraphs (b) and (c) of this section, may be permitted to operate upon Commission approval on a case-by-case basis. To obtain Commission approval, the operator must submit to the Commission its own proof-of-performance plan for ensuring subscribers receive good quality signals.

These rule sections remain unchanged and do not require additional OMB review and approval:

47 CFR Section 76.1704 requires that proof of performance test required by 47 CFR Section 76.601 shall be maintained on file at the operator's local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request. If a signal leakage log is being used to meet proof of performance test recordkeeping requirement in accordance with Section 76.601, such a log must be retained for the period specified in 47 CFR Section 76.601(d).

47 CFR Section 76.1705 requires that the operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

47 CFR Section 76.1717 states that an operator shall be prepared to show, on request by an authorized representative of the Commission or the local franchising authority, that the system does, in fact, comply with the technical standards rules in part 76, subpart K.

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 Sections 4(i) and 624(e) of the Communications Act of 1934, as amended.

2. The performance test data and channel listings are used in field inspections by Commission staff and franchise authorities to ensure that an acceptable quality signal is being provided to

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cable subscribers, and to ensure that there are no signal leakage problems which could cause interference with over-the-air radio frequencies involving safety-of-life functions (i.e., police, fire, forestry, aeronautical, amateur radio).

3. The use of information technology is not feasible in this situation. Physically conducting the performance tests constitutes the majority of the paperwork burden associated with this information collection.
4. There are no similar information collection or recordkeeping requirements imposed upon respondents.
5. This collection does not have a significant impact on small entities. The performance tests requirements do not apply to cable systems with fewer than 1,000 subscribers except for systems that use any frequency spectrum other than spectrum allocated to over-the-air broadcasting.

Therefore, systems that use any frequency spectrum other than spectrum allocated to over-the-air broadcasting with fewer than 1,000 subscribers their monitoring, logging and leakage repair requirements are covered under 47 CFR Section 76.1706, and these systems considered to have met the performance test requirements in 47 CFR Section 76.601. The information collection requirements contained in Section 76.1706 is found in a separate collection, OMB 3060-0332.

6. If the performance tests requirements were not sponsored by the Commission, then cable subscribers may be at risk of not obtaining reception of programming for which they have already paid. A lack of performance testing could also result in inconsistent or inadequate reception; and low-performing cable systems would then be subject to consumer complaints.
7. There is a special circumstance associated with this collection in that cable operators are required to retain their performance tests records for five years. The five year retention period is necessary to ensure that cable operators are making a diligent effort to continually provide quality signals and to suppress signal leakage on a long term basis. A longer period of record retention (five years, for example, as opposed to two years) allows for the Commission to readily identify patterns of long-term inadequate system performance.
8. The Commission published a Notice at 77 FR 61351 on October 9, 2012 seeking comment on the information collection requirements contained in this supporting statement. No comments were received from the public as a result of the Notice.
9. There will be no payments or gifts to respondents in return for conducting this information collection requirement.

- 10. There is no need for confidentiality with this collection of information.
- 11. This information collection does not address any private matters of a sensitive nature.
- 12. The annual burdens for this information collection are as follows:

A) Section 76.601:

There are approximately 2,475 analog and QAM digital cable television systems with over 1,000 subscribers who are required to conduct performance tests. The average annual burden on each cable system is 70 hours, including burden for conducting any additional performance tests.

$2,475 \text{ analog and QAM digital cable TV systems} \times 70 \text{ hours/performance tests} = 173,250 \text{ hours.}$

(B) Section 76.605(e):

There are approximately 36 cable television systems with over 1,000 subscribers who are required to conduct performance tests, but who do not operate NTSC analog, or QAM digital, cable systems. The one-time burden of submitting an alternative proof-of-performance plan to the Commission is approximately 8 hours per system.

$36 \text{ non-QAM cable TV systems} \times 8 \text{ hours/submission} = 288 \text{ hours}$

Additionally, approximately 82 cable television systems are registered each year. Of these, we estimate that approximately 10% will utilize non-QAM digital technology. Therefore, the average annual burden of submitting an alternative proof-of-performance plans to the Commission is:

$8 \text{ new non-QAM cable TV systems} \times 8 \text{ hours/submission} = 64 \text{ hours}$

Finally, we estimate that the burden to comply with these alternative proof-of-performance plans will be approximately 70 hours, the same burden associated with the Commission's proscribed proof-of-performance plans for analog and QAM digital cable systems. Therefore, the annual burden for these systems to comply is:

$36 \text{ non-QAM cable TV systems} \times 70 \text{ hours/performance test} = 2,520 \text{ hours}$

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(C) Section 76.1705:

Based on the Commission's registration data, there are currently 5,150 cable television systems in the nation. They are required to maintain a list of current cable television channels. We estimate the average annual burden per cable system is 0.5 hours.

5,150 cable TV systems x 0.5 hours = 2,575 hours.

(D) Sections 76.1704 and 76.1717

We estimate the recordkeeping requirement of maintaining test data files under 47 CFR 76.1704 and the third party disclosure requirement to show system compliance under 47 CFR 76.1717 will take minimum periods of time and will not place any additional burden on the cable television systems.

Total Number of Respondents: 5,150 Cable TV Systems

Total Number of Responses: 2,475 Performance Test Responses
 36 Non-QAM Performance Test Responses
 8 Non-QAM Performance Plan Submissions
 36 Non-QAM Performance Test Responses
 5,150 Lists of Current Cable TV Channels
7,705 (responses)

Total Annual Burden Hours: 173,250 hours + 288 hours + 64 hours + 2,520 + 2,575 hours
 = **178,697 hours**

Annual "In-house costs": We estimate that station engineering staff will conduct performance tests at an average of 50 hours to per test. We estimate the station engineers' salary at \$40/hour and the technical support staff salary at \$20/hour. The technical support assist station engineers with performance tests and we estimate 20 hours of technical support staff. The In-house technical support staff at \$20/hour will maintain a list of current cable television channels and issue notifications to cable operators. We expect this to be the same for analog, QAM, and non-QAM operators.

All estimates are based on the Commission's knowledge and familiarity with the availability of the data required.

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(A)	2,511 cable TV systems x 50 hours @ \$40/hr. for engineering staff	= \$5,022,000
	2,511 cable TV systems x 20 hours @ \$20/hr. for technical staff	= 1,004,400
	36 cable TV systems x 8 hours @ \$40/hr. for engineering staff	= 11,520
	8 new non-QAM cable TV systems x 8 hours @ \$40/hr. for engineering staff	= 2,560
(B)	2,575 hours paid @ \$20/hour for technical staff	= <u>51,500</u>
	Total Annual "In-house costs"	= \$6,091,980

13. Annual Cost Burden: There are no annual costs that are associated with this collection of information.

14. Cost to the Federal Government: The Commission makes approximately 100 annual inspections of cable operators' performance test records. For inspection of records, two Commission engineers, (GS-14, step 5, \$57.13/hour) visit the cable operator's place of business. The inspection and travel time are estimated at eight (8) hours.

100 inspections x 8 hours x 2 engineers = 1,600 hours.

1,600 hours @ \$57.13/per hour for engineering staff	= \$91,408
Travel expenses @ \$100/per inspection x 100 inspections	= <u>\$10,000</u>
Total Cost to the Federal Government:	= \$101,408

15. The Commission will have program changes of -3,100 to the number of respondents, -4,480 to the number of responses and -97,428 to the annual burden hours if the proposed requirements contained in FCC 12-86 are adopted in a final rulemaking. Also, widespread industry consolidation has resulted in fewer, though larger, respondents, resulting in a decrease in the total number of estimated responses and in term a decrease in the annual burden hours.

16. The results of this information collection requirement are not planned to be published.

17. We are not seeking approval to not display the expiration date for OMB approval of the information collection.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

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No statistical methods are employed.