

SUPPORTING STATEMENT

A. Justification:

1. 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 signal leakage rules that would be codified at 47 CFR 76.1804, as required by the Communications Act of 1934, as amended, as codified at 47 USC 154(i), 301, 303, 308, 309, and 621. With this Notice of Proposed Rulemaking, the Federal Communications Commission is proposing to extend the notification requirements to operators of digital systems at lower thresholds than those required under existing, analog rules. Currently, operators are required to file FCC Form 321 to notify the Commission when they operate at a power above a particular threshold. This threshold was designed to protect over-the-air users of the spectrum from interference from analog cable systems. The NPRM proposes to adopt a lower threshold for digital systems in order to provide over-the-air users of the spectrum with an equivalent level of protection.

The NPRM proposes to create a digital equivalency for the Commission's analog rules. As a result, these rules are designed to capture the same respondents previously covered by the Commission's analog rules, but who have transitioned, or are transitioning, to digital operation. Further, this digital equivalency is designed to take an equivalent amount of time to fulfill. As a result, absent external factors, the hourly estimated burden will not change as a result of this NPRM (there will not be an increase or decrease to the hourly burden). However, widespread industry consolidation has resulted in fewer, though larger, respondents, resulting in a decrease in the total number of estimated responses.

The NPRM does not propose that the information to be submitted on the form be changed.

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

Section 76.1804 states a Multichannel Video Programming Distributor (MVPD) shall notify the Commission before transmitting any carrier of other signal component with an average power level across a 30 kHz bandwidth in any 2.5 millisecond time period equal to or greater than 10^{-5} watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical radio frequency bands (108-137 MHz, 225-400 MHz). The notification shall be made on FCC Form 321. Such notification shall include:

(a) Legal name and local address of the MVPD;

(b) The names and FCC identifiers (e.g., CA0001) of the system communities affected, for a cable system, and the name and FCC identifier (e.g., CAB901), for other MVPDs;

(c) The names and telephone numbers of local system officials who are responsible for compliance with §§76.610 through 76.616 and §76.1803;

(d) Carrier frequency, tolerance, and type of modulation of all carriers in the aeronautical bands at any location in the cable distribution system and the maximum of those average powers measured over a 2.5 kHz bandwidth as described in the introductory paragraph to this rule section;

(e) The geographical coordinates (in NAD83) of a point near the center of the system, together with the distance (in kilometers) from the designated point to the most remote point of the plant, existing or planned, that defines a circle enclosing the entire plant;

(f) Certification that the monitoring procedure used is in compliance with §76.614 or description of the routine monitoring procedure to be used; and

(g) For MVPDs subject to §76.611, the cumulative signal leakage index derived under §76.611(a)(1) or the results of airspace measurements derived under §76.611(a)(2), including a description of the method by which compliance with the basic signal leakage criteria is achieved and the method of calibrating the measurement equipment.

(h) Aeronautical Frequency Notifications, FCC Form 321, shall be personally signed either electronically or manually by the operator; by one of the partners, if the operator is a partnership; by an officer, if the operator is a corporation; by a member who is an officer, if the operator is an unincorporated association; or by any duly authorized employee of the operator.

(i) Aeronautical Frequency Notifications, FCC Form 321, may be signed by the operator's attorney in case of the operator's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reasons why the FCC Form 321 was not signed by the operator. In addition, if any matter is stated on the basis of the attorney's belief only (rather than the attorney's knowledge), the attorney shall separately set forth the reasons for believing that such statements are true.

(j) The FCC Registration Number (FRN).

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 154(i), 301, 303, 308, 309, and 621 of the Communications Act of 1934, as amended.

2. Commission staff use the data to verify that MVPDs are aware of and comply with protection for aeronautical communications. The data is also used to rapidly determine the source of and eliminate interference should it occur.

3. The Commission requires applicants to file FCC Form 321 electronically.¹
4. No other agency imposes a similar information collection on the respondents. There is no similar data available.
5. This collection of information does not have a significant impact on a substantial amount of small businesses.
6. If the Commission did not require the collection of this information, it would be unable to insure the safety of air navigation.
7. There are no special circumstances with this collection of information.
8. The Commission published a Notice (77 FR 61351) in the *Federal Register* on October 9, 2012 seeking comments from the public on the information collection requirements contained in this collection. No comments were received from the public.
9. There are no payments of gifts given to respondents.
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 matter.
12. We estimate that MVPDs will file 1,100 FCC Form 321 annually. The licensees estimated burden for each FCC Form 321 is 40 minutes per filing. These estimates are based on Commission staff's knowledge and familiarity with the data required.

Total Number of Respondents: 1,100 MVPDs

Total Number of Responses: 1,100 FCC Form 321 filings

Total Annual Burden: 1,100 FCC Form 321 filings x 0.67(40 min.) = **737 hours**

Annual "In-house Cost": We estimate the respondent's salary at \$48.08 per hour.

Total Annual "In-house cost":

$\$48.08/\text{hour} \times 0.67 (40 \text{ min.})/\text{filing} \times 1,100 \text{ MVPDs} = \mathbf{\$35,434.96}$

¹ Paper-filed copies of FCC Form 321 will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Filers must plead with particularity the facts and circumstances warranting grant of a waiver. Waivers will not be routinely granted.

13. Annual Cost Burden:

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): Filing fee of \$60.00 for each FCC Form 321.
- (c) Total annualized cost requested: \$60.00 fee x 1,100 annual filings = \$66,000

14. Cost to the Federal Government: We estimate 1,100 annual filings of FCC Form 321. The estimated processing time per filing is 2.25 hours. The Commission will use staff at the GS-12, step 5 level (\$40.66/hour), GS-7, step 5 level (\$22.92/hour), and GS-5, step 5 level (\$18.50/hour).

0.50 hours x \$40.66/hour x 1,100 FCC Form 321 filings =	\$22,363.00
1.50 hours x \$22.92/hour x 1,100 FCC Form 321 filings =	\$37,818.00
0.25 hours x \$18.50/hour x 1,100 FCC Form 321 filings =	<u>\$ 5,087.50</u>
Total Cost to the Federal Government:	\$65,268.50

15. The Commission will have program changes of -2,074 to the number of respondents, -2,074 to the number of responses, -1,390 to the annual burden hours and -\$124,440 to the annual cost burden if in a final rulemaking. the proposed requirements contained in FCC 12-86 are adopted.

16. The results of this information collection will be published via the COALS online database.

17. The Commission seeks approval to not display the expiration date of this collection of information.

18. There is only one exception to the Certification Statement. The 60-day Federal Register Notice mentioned in question eight above stated that a recordkeeping requirement was associated with this collection of information. In fact, this is not the case, a recordkeeping requirement is not a part of this collection. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.