

§ 74.787 Digital licensing.

(a) *Applications for digital low power television and television translator stations—(1) Applications for digital conversion.* Applications for *digital conversion channels* may be filed at any time. Such applications shall be filed on FCC Form 346 and will be treated as a minor change application. There will be no application fee.

(2) *Applications for companion digital channel.* (i) A public notice will specify a time period or “window” for filing applications for companion digital channels. During this window, only existing low power television or television translator stations or licensees and permittees of Class A TV stations may submit applications for companion digital channels. Applications submitted prior to the initial window identified in the public notice will be returned as premature. At a subsequent time, a public notice will announce the commencement of a filing procedure in which applications will be accepted on a first-come, first-served basis not restricted to existing station licensees and permittees;

(ii) Applications for companion digital channels filed during the initial window shall be filed in accordance with the provisions of §§ 1.2105 and 73.5002 of this chapter regarding the submission of the short-form application, FCC Form 175, and all appropriate certifications, information and exhibits contained therein. To determine which applicants are mutually exclusive, applicants must submit the engineering data contained in FCC Form 346 as a supplement to its short-form application. Such engineering data will not be studied for technical acceptability, but will be protected from subsequently filed applications as of the close of the initial window period. Determinations as to the acceptability or grantability of an applicant’s proposal will not be made prior to an auction;

(iii) After the close of the initial window, a public notice will identify the short-form applications received during the window filing period which are found to be mutually exclusive. Such short-form applications will be resolved via the Commission’s Part 1 and broadcast competitive bidding rules, §§ 1.2100 *et seq.*, and §§ 73.5000 *et seq.* of

this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to § 73.5002(d) of this chapter;

(iv) After the close of the window, a public notice will identify short-form applications received that are found to be non-mutually exclusive. All non-mutually exclusive applicants will be required to submit an FCC Form 346 pursuant to § 73.5005 of this chapter. Such applications shall be processed pursuant to § 73.5006 of this chapter; and

(v) With regard to fees, an application (FCC Form 346) for companion digital channels shall be treated as a minor change application and there will be no application fee.

(3) *Construction permit applications for new stations, major changes to existing stations in the low power television service.* A public notice will specify the date upon which interested parties may begin to file applications for new stations and major facilities changes to existing stations in the low power television service. It will specify parameters for any applications that may be filed. Applications submitted prior to date announced by the public notice will be returned as premature. Such applications shall be accepted on a first-come, first-served basis, and shall be filed on FCC Form 346. Applications for new or major change shall be subject to the appropriate application fee. Mutually exclusive applications shall be resolved via the Commission’s part 1 and broadcast competitive bidding rules, § 1.2100 *et seq.*, and § 73.5000 *et seq.* of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to § 73.5002(d) of this chapter.

(4) *Displacement applications.* A digital low power television or television translator station which is causing or receiving interference or is predicted to cause or receive interference to or from an authorized TV broadcast station, DTV station or allotment or other protected station or service, may at any time file a displacement relief application for change in channel, together with technical modifications

that are necessary to avoid interference or continue serving the station's protected service area, provided the proposed transmitter site is not located more than 30 miles from the reference coordinates of the existing station's community of license. See § 76.53 of this chapter. A displacement relief application shall be filed on FCC Form 346 and will be considered a minor change and will be placed on public notice for a period of not less than 30 days to permit the filing of petitions to deny. These applications will not be subject to the filing of competing applications. Where a displacement relief application for a digital low power television or television translator station becomes mutually exclusive the application(s) for new analog or digital low power television or television translator stations, with a displacement relief application for an analog low power television or television translator station, or with other non-displacement relief applications for facilities modifications of analog or digital low power television or television translator stations, priority will be afforded to the displacement application for the digital low power television or television translator station to the exclusion of other applications. Mutually exclusive displacement relief applications for digital low power television and television translator stations shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, § 1.2100 *et seq.*, and § 73.5000 *et seq.* of this chapter. Such applicants shall be afforded an opportunity to submit settlements and engineering solutions to resolve mutual exclusivity pursuant to § 73.5002(d) of this chapter.

(5) *Application for replacement digital television translator.* (i) An application for a replacement digital television translator may be filed at any time. A license for a replacement digital television translator will be issued only to a television broadcast station licensee that demonstrates in its application that a portion of the station's pre-transition analog service area will not be served by its full, post-transition digital facilities and that the proposed translator will be used to provide service to the area where service has been lost." Replacement digital television

translators may operate on channels 2-51. Applications for replacement digital television translator shall be given processing priority over all other low power television and TV translator applications except displacement applications (with which they shall have co-equal priority) as set forth in 47 CFR 73.3572(a)(4)(ii). The service area of the replacement translator shall be limited to only a demonstrated loss area within the full-service station's pre-transition analog service area. "Analog service area" is defined as the existing, authorized, protected service area actually served by the analog signal prior to analog termination for the DTV transition. An applicant for a replacement digital television translator may propose a *de minimis* expansion of its full-service pre-transition analog service area upon demonstrating that the expansion is necessary to replace its analog loss area. The license for the replacement digital television translator will be associated with the full power station's main license, will be assigned the same call sign, may not be separately assigned or transferred, and will be renewed with the full-service station's main license.

(ii) Each original construction permit for the construction of a replacement digital television translator station shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. The provisions of § 74.788(c) of this chapter shall apply for stations seeking additional time to complete construction of their replacement digital television translator station.

(iii) A public notice will specify the date upon which interested parties may begin to file applications for replacement digital television translators. Such applications shall be filed on FCC Form 346, shall be treated as an application for minor change and shall be accepted on a first-come, first-served basis. Mutually exclusive applications shall be resolved via the Commission's part 1 and broadcast competitive bidding rules, § 1.2100 *et seq.* and § 73.5000 *et seq.* of this chapter.

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(iv) The following sections are applicable to replacement digital television translator stations:

- § 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.
- § 74.703 Interference.
- § 74.709 Land mobile station protection.
- § 74.734 Attended and unattended operation.
- § 74.735 Power Limitations.
- § 74.751 Modification of transmission systems.
- § 74.763 Time of Operation.
- § 74.765 Posting of station and operator licenses.
- § 74.769 Copies of rules.
- § 74.780 Broadcast regulations applicable to translators, low power, and booster stations (except § 73.653—Operation of TV aural and visual transmitters and § 73.1201—Station identification).
- § 74.781 Station records.
- § 74.784 Rebroadcasts.

(b) *Definitions of “major” and “minor” changes to digital low power television and television translator stations.* (1) Applications for major changes in digital low power television and television translator stations include:

- (i) Any change in the frequency (output channel) not related to displacement relief;
- (ii) Any change in transmitting antenna location where the protected contour resulting from the change does not overlap some portion of the protected contour of the authorized facilities of the existing station; or
- (iii) Any change in transmitting antenna location of greater than 30 miles (48 kilometers) from the reference coordinates of the existing station’s antenna location.

(2) Other facilities changes will be considered minor.

(c) Not later than 11:59 pm local time on September 1, 2011, low power television or TV translator stations operating analog (NTSC) or digital facilities above Channel 51, that have not already done so, must file a digital displacement application for a channel below Channel 52 pursuant to the procedures in subsection (a)(4) of this rule. Low power television and TV translator stations operating analog (NTSC) or digital facilities above Channel 51 that have not submitted a digital displacement application by 11:59 pm local time on September 1, 2011 will be required to cease operations altogether

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by December 31, 2011. These stations’ authorization for facilities above Channel 51 shall be cancelled. Any digital displacement application submitted by a low power television or TV translator station operating analog (NTSC) or digital facilities above Channel 51 that is submitted after 11:59 pm local time on September 1, 2011 will be dismissed. In addition, any outstanding construction permit (analog or digital) for an channel above Channel 51 will be rescinded on December 31, 2011, and any pending application (analog or digital) for a channel above Channel 51 will be dismissed on December 31, 2011, if the permittee has not submitted a digital displacement application by 11:59 pm local on September 1, 2011.

[69 FR 69333, Nov. 29, 2004, as amended at 74 FR 23655, May 20, 2009; 76 FR 44828, July 27, 2011]

§ 74.788 Digital construction period.

(a) Each original construction permit for the construction of a new digital low power television or television translator station shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed.

(b) Any construction permit for which construction has not been completed and for which an application for license or extension of time has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission.

(c) *Authority delegated.* (1) For the September 1, 2015 digital construction deadline, authority is delegated to the Chief, Media Bureau to grant an extension of time of up to six months beyond September 1, 2015 upon demonstration by the digital licensee or permittee that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee’s control where the licensee has take all reasonable steps to resolve the problem expeditiously.

(2) Such circumstances shall include, but shall not be limited to:

- (i) Inability to construct and place in operation a facility necessary for transmitting digital television, such as