

treatment standard. In this authorization, there are no broader in scope provisions. Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them.

I. Who Handles Permits After the Authorization Takes Effect?

The State of Texas will issue and administer permits for all the provisions for which it is authorized. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. Upon authorization of the State program, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities for which the State is receiving authorization. EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which State of Texas is not yet authorized.

J. When Will This Approval Take Effect?

EPA, after the close of the public comment period, will review and respond to comments it receives and then will subsequently publish a final action that responds to the comments and may either finalize the proposal without change, modify the proposal based on comments, or announce a decision not to finalize the proposal.

K. How Does Today's Action Affect Indian Country in Texas?

Texas is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

L. What Is Codification and Is EPA Codifying Texas' Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart SS for this authorization of Texas' program changes until a later date. EPA is not codifying the State of Texas' statutes or regulations in this program revision.

M. Statutory and Executive Order Reviews

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This proposed rule is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 10, 2005.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 05-5410 Filed 3-17-05; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 73

[ET Docket No. 05-24; FCC 05-17]

DTV Tuner Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to adjust the schedule by which new broadcast television receivers are required to include the capability to tune digital television (DTV) signals. The Commission request comment on whether there is need to revise the implementation schedule of the DTV tuner requirement for receivers with screen sizes 25 to 36 inches and, if so, how that schedule should be revised to achieve our goal that all new television

receivers include DTV tuning capability by July 1, 2007.

DATES: Comments must be filed on or before April 18, 2005, and reply comments must be filed on or before May 2, 2005.

ADDRESSES: You may submit comments, identified by (ET Docket No. 05–24) by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Federal Communications Commission's Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Alan Stillwell, Office of Engineering and Technology, (202) 418–2925, e-mail: Alan.Stillwell@fcc.gov, TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* (NPRM), ET Docket No. 05–24, FCC 05–17, adopted January 19, 2005, and released February 14, 2005. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternate formats are available to persons with disabilities at TTY (202) 418–7365.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before April 18, 2005, and reply comments on or before May 2, 2005. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an

electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

Summary of Notice of Proposed Rulemaking

1. The Commission commences this proceeding to consider adjusting the schedule by which new broadcast television receivers with screen sizes 25 to 36 inches are required to include the capability to tune digital television (DTV) signals. This provision of the rules is an element of the Commission's phase-in plan for requiring that all new broadcast television receivers include

DTV reception capability by July 1, 2007. The DTV reception requirement was adopted by the Commission in the *Second Report and Order and Second Memorandum Opinion and Order* (DTV Tuner Order), 67 FR 63290, October 11, 2002, in the DTV review proceeding and is also often termed the "DTV tuner requirement." This requirement is being phased-in over a four-year period to avoid imposing undue costs on manufacturers and consumers and to avoid disruption of the TV receiver market. On November 5, 2004, the Consumer Electronics Association and the Consumer Electronics Retailers Coalition (CEA–CERC) submitted a Petition for Rulemaking requesting that we eliminate the scheduled July 1, 2005, date for 50 percent of new TV receivers with screen sizes 25 to 36 inches to include DTV reception capability and advance the date on which 100 percent of such receivers must include that capability by three months, from July 1, 2006, to March 1, 2006. CEA–CERC submit that this change is needed to resolve certain adverse consequences of the 50 percent aspects of the phase-in plan for the DTV tuner requirement that have become apparent recently through experience in retailing and manufacturing. In response to the CEA–CERC petition, we request comment on whether there is need to revise the implementation schedule of the DTV tuner requirement for receivers with screen sizes 25 to 36 inches and, if so, how that schedule should be revised to achieve our goal that all new television receivers include DTV tuning capability by July 1, 2007.

2. In the *DTV Tuner Order*, the Commission adopted rules requiring that all TV receivers shipped in interstate commerce or imported into the United States, for sale or resale to the public, with screen sizes 13 inches or larger and TV interface devices be capable of receiving the signals of DTV broadcast stations over-the-air no later than July 1, 2007. Under these rules, TV broadcast receivers are required only to provide useable picture and sound commensurate with their video and audio capabilities when receiving DTV signals. The DTV tuner requirement was intended to facilitate the transition to digital television by promoting the availability of DTV reception equipment and to protect consumers by ensuring that their TV receivers will provide off-the-air TV reception in the digital world just as they do today. In order to minimize the impact of the DTV tuner requirement on both manufacturers and consumers, the Commission adopted a phase-in schedule that applies the

requirement first to receivers with the largest screens and then to progressively smaller screen receivers and TV interface devices. This phase-in plan is intended to allow increasing economies of scale with production volume to be realized so that tuner costs will be lower when they are required to be included in smaller sets and TV interface devices. The phase-in plan is currently as follows:

Receivers with screen sizes 36" and above—50% of a responsible party's units must include DTV tuners effective July 1, 2004; 100% of such units must include DTV tuners effective July 1, 2005;

Receivers with screen sizes 25" to 36"—50% of a responsible party's units must include DTV tuners effective July 1, 2005; 100% of such units must include DTV tuners effective July 1, 2006;

Receivers with screen sizes 13" to 24"—100% of all such units must include DTV tuners effective July 1, 2007;

TV Interface Devices (videocassette recorders (VCRs), digital versatile disk (DVD) players/recorders, etc.) that receive broadcast television signals—100% of all such units must include DTV tuners effective July 1, 2007.

3. In their petition for rulemaking, CEA-CERC request that we eliminate the July 1, 2005, requirement for 50 percent of TV receivers with screen sizes 25 to 36 inches to include DTV reception capability and instead advance from July 1, 2006, to March 1, 2006, date for all such receivers to include a DTV tuner. They submit that manufacturers and retailers experience with the 50 percent provision for 36 inch and larger receivers is that the 50 percent aspect of the phase-in plan is antithetical to the purpose of the requirement. CEA-CERC state that, in practice, the 50 percent requirement has proven to be unduly disruptive in the marketplace in ways unforeseen and, in fact, threatens to slow, rather than speed, consumer migration to TV receivers with DTV tuners. They indicate that this is because consumers typically choose a lower-priced product with otherwise similar features except for the DTV tuner.

4. The DTV tuner requirement is intended to provide this capability to the general population on a schedule that will promote a rapid completion of the transition while minimizing the potential for the incremental costs of DTV tuning capability to disrupt the television receiver market. At the time we adopted the 50 percent of production elements of the phase-in provisions of the DTV tuner

requirement, our intent was that these intermediate increases in the proportions of new receivers with DTV tuners would gradually apply the tuner requirement to progressively greater proportions of receivers as manufacturers develop efficiencies in production and thereby minimize the impact of the tuner requirement on both manufacturers/importers and consumers. As described in the CEA-CERC petition, it now appears that the partial production elements of this plan may be impeding rather than promoting the introduction of TV receivers that include DTV tuners. We are initiating this rulemaking proceeding to consider whether there is a need to modify the implementation schedule of the DTV tuner requirement for receivers with screen sizes 25 to 36 inches to address the disruptive effects on the TV receiver market indicated in the CEA-CERC petition and, if so, to develop revisions to that plan that will achieve our goal that all new television receivers include DTV tuning capability by July 1, 2007, in a phased in approach that will help develop economies of scale, and our goal of furthering the DTV transition.

5. In considering this matter, it is our intent that any revisions we may make to the tuner requirement should not serve to delay the completion of the DTV transition. We believe it is important that the implementation schedule under any such revisions should foster a more rapid introduction of DTV reception capability and in no event should extend the current July 1, 2007, date for full implementation. We also continue to believe that it is desirable and important to provide for the gradual introduction of the DTV tuner requirement in order to allow manufacturers and importers to develop the economies of scale that are necessary to reduce the costs of DTV tuners when they are included in smaller screen sets and other devices such as videocassette and DVD recorders that do not include a viewing screen.

6. In this context, we request comment on whether there is need to revise the TV tuner requirement implementation schedule for receivers with screen sizes 25 to 36 inches and suggestions for specific revisions to the schedule for such devices to address that need. We specifically request comment on the approach suggested by CEA-CERC whereby the requirement that 50 percent of receivers with screen sizes 25 inches to 36 inches incorporate a DTV tuner in the period from July 1, 2005, to July 1, 2006, would be eliminated and replaced with a new provision requiring that all receivers

with screen sizes 25 inches to 36 inches be required to include a DTV tuner effective March 1, 2006. We also invite alternative approaches for addressing the market situation described in the CEA-CERC petition and intend to consider the full range of options that are consistent with our stated goals. However, commenting parties are advised that we do not intend to extend the July 1, 2007, date by which all broadcast television receivers include DTV reception capability.

Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended ("RFA"),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking ("NPRM"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in paragraph 11. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.² In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.³

A. Need for and Objectives of the Proposed Rules. As described in the NPRM, the changes to the rules being considered in this proceeding are intended to ensure a smooth transition of the nation's television system to digital television. Beginning in 1987, the Commission undertook to bring the most up-to-date technology to broadcast television. That resulted in several Commission decisions, including those adopting a digital television (DTV) standard, DTV service rules, and a Table of DTV Allotments. The Table of DTV Allotments provides each existing television broadcaster with a second channel on which to operate a DTV station for the transition period, after which one of its channels will revert to the government for use in other services. The transition deadline established by Congress is December 31, 2006. Consistent with its efforts to promote the expeditious completion of the DTV transition, the Commission has adopted a requirement that all new television

¹ See 5 U.S.C. 603. The RFA, See 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. 603(a).

³ See *id.*

receivers imported or shipped in interstate commerce after July 1, 2007, include the capability to receive DTV signals off-the-air. In order to minimize the impact of the DTV tuner requirement on both manufacturers and consumers, the Commission adopted a phase-in schedule that applies the DTV tuner requirement first to receivers with the screens and then to progressively smaller screen receivers and TV interface devices. The Consumer Electronics Association and the Consumer Electronics Retailers Coalition (CEA-CERC) submitted a petition for rule making requesting that the Commission eliminate the portion of the phase-in schedule requiring that 50 percent of TV receivers with screen sizes 25" to 36" include DTV reception capability from July 1, 2005, to July 1, 2006, and instead advance the date for requiring all such receivers to include a DTV tuner to March 1, 2006, from July 1, 2006. CEA-CERC indicates that the 50 percent requirement has proven to be disruptive to the market in the case of larger screen receivers. We issued the NPRM to consider whether there is a need to modify the portion of the DTV tuner requirement phase-in plan that applies to receivers with screen sizes 24" to 36", and if so, to develop revisions to that plan that will achieve our goal that all new television receivers include DTV tuning capability by July 1, 2007.

B. Legal Basis. The authority for the action proposed in this rulemaking is contained in sections 4(i) & (j), 303, 307, 309 and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) & (j), 303, 307, 309 and 336.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules.⁴ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental entity."⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁶ A small business concern is one

which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA").⁷

Electronics Equipment Manufacturers. Rules adopted in this proceeding would apply to manufacturers of DTV receiving equipment and other types of consumer electronics equipment. The SBA has developed definitions of small entity for manufacturers of audio and video equipment⁸ as well as radio and television broadcasting and wireless communications equipment.⁹ These categories both include all such companies employing 750 or fewer employees. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will utilize the SBA definitions applicable to manufacturers of audio and visual equipment and radio and television broadcasting and wireless communications equipment, since these are the two closest NAICS Codes applicable to the consumer electronics equipment manufacturing industry. However, these NAICS categories are broad and specific figures are not available as to how many of these establishments manufacture consumer equipment. According to the SBA's regulations, an audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern.¹⁰ Census Bureau data indicates that there are 554 U.S. establishments that manufacture audio and visual equipment, and that 542 of these establishments have fewer than 500 employees and would be classified as small entities.¹¹ The remaining 12 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities

such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

⁷ 15 U.S.C. 632.

⁸ 13 CFR 121.201 (NAICS Code 334310).

⁹ 13 CFR 121.201 (NAICS Code 334220).

¹⁰ 13 CFR 121.201 (NAICS Code 334310).

¹¹ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Audio and Video Equipment Manufacturing, Table 4 at 9 (1999). The amount of 500 employees was used to estimate the number of small business firms because the relevant Census categories stopped at 499 employees and began at 500 employees. No category for 750 employees existed. Thus, the number is as accurate as it is possible to calculate with the available information.

under the SBA definition. Under the SBA's regulations, a radio and television broadcasting and wireless communications equipment manufacturer must also have 750 or fewer employees in order to qualify as a small business concern.¹² Census Bureau data indicates that there 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities.¹³ The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

Computer Manufacturers. The Commission has not developed a definition of small entities applicable to computer manufacturers. Therefore, we will utilize the SBA definition of electronic computers manufacturing. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity.¹⁴ Census Bureau data indicates that there are 563 firms that manufacture electronic computers and of those, 544 have fewer than 1,000 employees and qualify as small entities.¹⁵ The remaining 19 firms have 1,000 or more employees. We conclude that there are approximately 544 small computer manufacturers.

D. Description of Projected Reporting, Recordkeeping and other Compliance Requirements. At this time, we do not expect that the rule changes being considered in this proceeding would impose any significant additional

¹² 13 CFR 121.201 (NAICS Code 513220).

¹³ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, Table 4 at 9 (1999). The amount of 500 employees was used to estimate the number of small business firms because the relevant Census categories stopped at 499 employees and began at 500 employees. No category for 750 employees existed. Thus, the number is as accurate as it is possible to calculate with the available information.

¹⁴ 13 CFR 121.201 (NAICS Code 334111).

¹⁵ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Electronic Computer Manufacturing, Table 4 at 9 (1999).

⁴ 5 U.S.C. 603(b)(3).

⁵ 5 U.S.C. 601(6).

⁶ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of

recordkeeping or recordkeeping requirements. While the modifications being considered in the Notice could have an impact on consumer electronics manufacturers and broadcasters, such impact would be similarly costly for both large and small entities. We seek comment on whether others perceive a need for more extensive recordkeeping under specific options for addressing the issues in the NPRM and, if so, whether the burden would fall on large and small entities differently.

E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁶

The rule changes under consideration in this proceeding would revise the schedule for implementation of the requirement that new television receivers include the capability for reception of broadcast DTV signals. We requested comment on a suggestion for revising the schedule submitted by CEA-CERC in their petition for rulemaking. We also invited interested parties to submit alternative suggestions for revising the implementation schedule.¹⁷

F. Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposals. None.

8. Ordering Clauses. Pursuant to the authority contained in sections 2(a), 4(i) & (j), 7, and 303 of the Communications Act of 1934 as amended, 47 U.S.C. 152(a), 154(i) & (j), 157, and 303, this Notice of Proposed Rule Making is adopted.

9. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 05-5402 Filed 3-17-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 05-62; FCC 05-31]

Amendment of the Commission's Rules to Provide for Flexible Use of the 896-901 MHz and 935-940 MHz Bands Allotted to the Business and Industrial Land Transportation Pool, and Oppositions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes amendments of its rules to facilitate more flexible use of the 199 channels allocated to the Business and Industrial Land Transportation (B/ILT) Pools in the 896-901/935-940 MHz (900 MHz) bands, by permitting any use of the B/ILT channels in the 900 MHz band that is consistent with the band's fixed and mobile allocations. In addition, the Commission proposes to license the remaining spectrum using a geographic area licensing scheme, and to adopt service rules, including licensing, technical and operational rules for the new geographic licensees. Further, the Commission seeks comment on competitive bidding rules and procedures to be used in the event that mutually exclusive applications are filed for the 900 MHz proposed geographic licenses.

DATES: Comments are due on or before April 18, 2005. Reply comments are due May 2, 2005.

ADDRESSES: You may submit comments, identified by WT Docket No. 05-62, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- Email: To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Include the docket number(s) in the subject line of the message.

- Mail: Appropriate addresses for submitting comments and reply comments may be found in the **SUPPLEMENTARY INFORMATION** section of this document.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to Judith.B.Herman@fcc.gov, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, via the Internet to Kristy_L.LaLonde@omb.eop.gov, or via fax at 202-395-5167.

FOR FURTHER INFORMATION CONTACT:

Michael Connelly, Wireless Telecommunications Bureau, at (202) 418-0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Notice and Proposed Rulemaking (NPRM)*, FCC 05-31, in WT Docket No. 05-62, adopted February 10, 2005, and released February 16, 2005. The full text of this document is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY-A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Best Copy & Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 800-378-3160, facsimile 202-488-5563, or via e-mail at www.fcc@bcpweb.com.

Paperwork Reduction Act

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002,

¹⁶ 5 U.S.C. 603.

¹⁷ See *NPRM*, paragraph 8.