

Federal Communications Commission

FCC 06-150

Facility ID	State and City		NTSC	DTV								
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)	Area (sq km)	Population (thousand)	Percent Interference Received
18287	WY	CHEYENNE	33	11	16	650	67257	403247	1051150	28369	2763	0
40250	WY	CHEYENNE	27	27	169	232	74478	410255	1045328	13499	438	0
63166	WY	CHEYENNE	5	30	630	189		410601	1050023	18799	415	2.9
1283	WY	JACKSON	2	2	1	293	74378	432742	1104510	17622	31	0
35103	WY	JACKSON	11	11	3.2	327	74724	432742	1104510	10697	22	0
63162	WY	LANDER	5	7	31.7	82	74964	425343	1084334	15754	32	2.8
10036	WY	LANDER	4	8	60	463	74965	423459	1084236	36626	35	0.6
10032	WY	LARAMIE	8	8	3.2	318	74718	411717	1052642	12970	109	0.1
21612	WY	RAWLINS	11	9	3.2	70	74966	414615	1071425	9432	11	0
21613	WY	RIVERTON	10	10	13.9	526	74402	432726	1081202	26119	49	0.2
63170	WY	ROCK SPRINGS	13	13	14.2	495	74448	412621	1090642	33006	43	0
81191	WY	SHERIDAN	7	7	3.2	349	74717	443720	1070657	12316	28	0
17680	WY	SHERIDAN	12	13	50	372		443720	1070657	32735	52	0
51233	GU	AGANA	8	8	3.2	282		132553	-1444236			
25511	GU	AGANA	12	12	38.9	75		132613	-1444817			
29232	GU	TAMUNING	14	14	50	1		133009	-1444817			
3255	PR	AGUADA	50	50	50	343	74700	181906	671049	13067	853	2.3
71725	PR	AGUADILLA	12	12	7.31	665	74705	180900	665900	35964	1570	1.9
61573	PR	AGUADILLA	44	17	50	372	74920	181906	671042	17140	918	2.5
26602	PR	AGUADILLA	32	34	250	605		180906	665923	35001	1383	7.2
26676	PR	ARECIBO	60	14	50	242	74697	182721	665259	15109	1162	14.4
3001	PR	ARECIBO	54	46	50	600	74610	181406	664536	16621	2420	5.7
4110	PR	BAYAMON	36	30	50	329	74691	181640	660638	14518	2514	0.5
19777	PR	CAGUAS	11	11	3.2	357	74649	181654	660646	16753	2655	0.1
8156	PR	CAGUAS	58	48	50	329	74666	181640	660638	13039	2404	2.3
54443	PR	CAROLINA	52	51	450	585	32803	181644	655112	30994	2770	0.1
73901	PR	FAJARDO	13	13	2.8	863		181836	654741	34770	2702	0.1
2174	PR	FAJARDO	40	16	150	839	58931	181836	654741	30040	2720	3.9
15320	PR	FAJARDO	34	33	50	848	74765	181836	654741	24903	2589	0.2
18410	PR	GUAYAMA	46	45	50	642	74921	181648	655108	23740	2490	0.9
67190	PR	HUMACAO	68	49	50	594	74922	181644	655112	19555	2503	0.7
60357	PR	MAYAGUEZ	16	22	50	338	74738	181851	671124	16336	808	14.3
73336	PR	MAYAGUEZ	22	23	400	693	65201	180900	665900	37898	1376	0.9
64865	PR	MAYAGUEZ	5	29	1000	607		180902	665920	45696	1574	14.2

Federal Communications Commission

FCC 06-150

Facility ID	State and City		NTSC		DTV							
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDMMSS)	Area (sq km)	Population (thousand)	Percent Interference Received
53863	PR	MAYAGUEZ	3	35	1000	691	74923	180900	665900	45118	1962	0.1
19561	PR	NARANJITO	64	18	50	142	74703	181734	661602	12482	2515	0.1
60341	PR	PONCE	7	7	49	88	74346	180252	663916	19142	1154	0
19776	PR	PONCE	9	9	3.2	825	74569	181009	663436	28603	3473	0
26681	PR	PONCE	14	15	380	839	67269	181010	663436	41328	3364	5.6
58341	PR	PONCE	20	19	700	269	65948	180449	664453	24888	1701	0.1
2175	PR	PONCE	26	25	200	310	41622	180448	664456	19187	1516	0
29000	PR	PONCE	48	47	50	247	74924	180450	664450	11769	1118	0.3
58340	PR	SAN JUAN	24	21	1000	564		181645	655114	44300	3102	0.4
52073	PR	SAN JUAN	4	27	1000	794		180642	660305	53151	3389	0.5
64983	PR	SAN JUAN	2	28	871	861	74925	180654	660310	52474	3313	4
4077	PR	SAN JUAN	30	31	75.9	287		181630	660536	15347	2490	0.6
28954	PR	SAN JUAN	18	32	3.9	290	65128	181630	660536	7747	2088	6.4
53859	PR	SAN JUAN	6	43	791	825	74633	180642	660305	48283	3343	0
58342	PR	SAN SEBASTIAN	38	39	700	627	65242	180900	665900	34738	1692	0
39887	PR	YAUCO	42	41	185	832		181010	663436	39318	3448	0
3113	VI	CHARLOTTE AMALIE	17	17	50	455	75035	182126	645650	24537	104	0.1
83270	VI	CHARLOTTE AMALIE		43	1.4	28		182043	645545	1687	0	0
70287	VI	CHARLOTTE AMALIE	12	44	50	458	64810	182126	645650	18987	14	0.2
84407	VI	CHRISTIANSTED	15	15	50	296	74735	174521	644756	14545	0	0
2370	VI	CHRISTIANSTED	8	20	501	292	74953	174521	644756	17484	7	0
83304	VI	CHRISTIANSTED	39	23	0.85	130		174440	644340	5461	0	0

APPENDIX C

INITIAL REGULATORY FLEXIBILITY ACT ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”)¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (“IRFA”) concerning the possible significant economic impact on small entities by the policies and rules proposed in this *Seventh Further Notice of Proposed Rulemaking* (“Notice” or “*Seventh FNPRM*”). 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 indicated on the first page of the *Notice*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for and Objectives of the Proposed Rules

2. The *Seventh FNPRM* proposes a new DTV Table of Allotments (“DTV Table”), providing all eligible broadcast television stations with channels for DTV operations after the DTV transition. The new DTV Table will affect all commercial and noncommercial broadcast television stations, including low power and TV translator stations.

3. The proposed new DTV Table is based on the tentative channel designations (“TCDs”) announced for eligible broadcast licensees through the channel election process, as well as on the Commission’s efforts to promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities. During this election process, which was established by the *Second DTV Periodic Report and Order*, broadcast licensees selected their ultimate DTV channel inside the “core spectrum,” consisting of current television channels 2 through 51 (54-698 MHz).⁴ In developing the proposed new allotments, the Commission sought to accommodate broadcasters’ channel preferences, as well as their replication and maximization service area certifications (made via FCC Form 381).

4. We believe our proposed new DTV Table achieves the goals set forth for the channel election process.⁵ First, the proposed new DTV Table provides all eligible stations with channels for DTV operations after the DTV transition. Second, we believe our proposed new DTV Table is the result of informed decisions by licensees when making their channel elections and that licensees benefited from the clarity and transparency of the channel election process. Third, we believe our proposed new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, to the extent feasible. Finally, we believe the proposed new DTV Table reflects our efforts to promote overall spectrum efficiency and ensure the best possible DTV service to the public.

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 et. seq., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (“CWAAA”).

² See 5 U.S.C. § 603(a).

³ See *id.* § 603(a).

⁴ *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18292, ¶ 33.

⁵ *Id.* at 18291, ¶ 31.

B. Legal Basis

5. The authority for the action proposed in this rulemaking is contained in Sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C §§ 151, 154(i) and (j), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

6. 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, if adopted.⁶ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small government jurisdiction.”⁷ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁸ 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 SBA.⁹ The proposed rules, if adopted, in this *Seventh FNPRM*, will primarily affect television stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

7. *Television Broadcasting.* The proposed rules and policies apply to television broadcast licensees and potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than \$13 million in annual receipts.¹⁰ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”¹¹ According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on June 16, 2006, about 915 of the 1,305 commercial television stations¹² (or about 70 percent) have revenues of \$13 million or less and thus qualify as small entities under the SBA definition.

⁶ *Id.* § 603(b)(3).

⁷ 5 U.S.C. § 601(6).

⁸ *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in 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 such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

⁹ 15 U.S.C. § 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission’s statistical account of television stations may be over-inclusive.

¹⁰ *See* 13 C.F.R. § 121.201, NAICS Code 515120 (2006).

¹¹ *Id.* This category description continues, “These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.” Separate census categories pertain to businesses primarily engaged in producing programming. *See* Motion Picture and Video Production, NAICS code 512110; Motion Picture and Video Distribution, NAICS Code 512120; Teleproduction and Other Post-Production Services, NAICS Code 512191; and Other Motion Picture and Video Industries, NAICS Code 512199.

¹² Although we are using BIA’s estimate for purposes of this revenue comparison, the Commission has estimated the number of licensed commercial television stations to be 1,371. *See* News Release, “Broadcast Station Totals as of March 31, 2006” (dated May 26, 2006); available at <http://www.fcc.gov/mb/audio/totals/index.html>.

We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations¹³ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

8. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

9. *Class A TV, LPTV, and TV translator stations.* The proposed rules and policies also apply to licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than \$13 million in annual receipts.¹⁴ Currently, there are approximately 589 licensed Class A stations, 2,157 licensed LPTV stations, and 4,549 licensed TV translators.¹⁵ Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA’s definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than \$13 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

D. Description of Projected Reporting, Recordkeeping and other Compliance Requirements

10. The proposals set forth in this *Notice* would involve no changes to reporting, recordkeeping and other compliance requirements beyond what is already required under the current regulations.

E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

11. 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

¹³ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 C.F.R. § 121.103(a)(1).

¹⁴ See 13 C.F.R. § 121.201, NAICS Code 515120 (2006).

¹⁵ See News Release, “Broadcast Station Totals as of March 31, 2006” (dated May 26, 2006); available at <http://www.fcc.gov/mb/audio/totals/index.html>.

than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁶

12. The proposed new DTV Table provides all eligible broadcast television stations – large and small alike – with channels for post-transition DTV operations. Small broadcasters, just like large ones, benefited from participating in the channel election process. The proposed new DTV Table is the result of informed decisions by licensees when making their channel elections and licensees benefited from the clarity and transparency of the channel election process. Moreover, the proposed new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, to the extent feasible. The TCDs announced primarily were based on the channels elected by licensees. We estimate that more than 98 percent of licensees participating in the channel election process received a TCD for the channel they elected. The *Notice* invites comment from broadcasters, including small broadcasters, on the proposed new DTV Table.

13. In addition, the *Notice* provides an opportunity for certain licensees demonstrating special circumstances to request alternative channel assignments. The Commission will consider requests for alternative channel assignments only from (1) licensees who demonstrate that they cannot construct their full, authorized DTV facilities¹⁷ with their present TCD because doing so would cause unacceptable interference to protected TCDs,¹⁸ (2) licensees with international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments,¹⁹ (3) licensees with TCDs for low-VHF channels (channels 2-6); and (4) new licensees and permittees that attained such status after the start of the channel election process and to which we assigned a TCD for post-transition DTV operations because their assigned NTSC channel was determined to cause impermissible interference to existing licensees.²⁰ Licensees that want to change their DTV allotment, but which are not in any of these categories (*e.g.*, are technically able to construct their full, authorized DTV facilities on their existing TCD) may request a change in allotment only after the proposed DTV Table is finalized and must do so through the existing allotment procedures, as set forth in Section 1.420 of our rules.²¹ We believe small broadcasters with special circumstances will benefit from this opportunity. We also seek comment from small broadcasters on whether additional measures need to be taken in order to facilitate small broadcasters' transition to their ultimate DTV channel.

F. Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposals

14. None.

¹⁶ 5 U.S.C. § 603(c)(1)-(c)(4)

¹⁷ The term "full, authorized DTV facilities" here refers to the original facilities certified by the licensee in its FCC Form 381. We will not preclude requests for alternative channel assignments from licensees that modified their certified facilities after receiving a conflict letter in the first and second channel election rounds.

¹⁸ We will consider only engineering demonstrations here. Requests based on financial or other reasons will not be considered.

¹⁹ See Section III.E. *infra*.

²⁰ See Section III.F., *infra*.

²¹ 47 C.F.R. § 1.420.

**STATEMENT OF
COMMISSIONER ROBERT M. MCDOWELL**

*Re: Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service
(MB Docket No. 87-268)*

Through this Further Notice, we begin the final stage of the transition of broadcasters to digital television. The Notice proposes a new DTV Table of Allotments, taking the seventh and final step to complete the DTV channel election process.

As we embark on this final step, I want to commend the staffs of the Media Bureau and the Office of Engineering and Technology for their diligent work on this and other digital transition issues. I support the Further Notice and commend the Chairman on his leadership in this area.