

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Wells, City of, Cherokee County	480741	February 4, 1991, Emerg; June 1, 1991, Reg; January 6, 2011, Susp.	.....do	Do.
Yorktown, City of, DeWitt County	480197	January 16, 1974, Emerg; March 1, 1987, Reg; January 6, 2011, Susp.	.....do	Do.
Region VII				
Iowa:				
Anita, City of, Cass County	190048	April 11, 1975, Emerg; June 17, 1986, Reg; January 6, 2011, Susp.	.....do	Do.
Atlantic, City of, Cass County	190049	July 8, 1975, Emerg; August 5, 1986, Reg; January 6, 2011, Susp.	.....do	Do.
Cass County, Unincorporated Areas	190852	August 25, 1975, Emerg; September 1, 1986, Reg; January 6, 2011, Susp.	.....do	Do.
Lewis, City of, Cass County	190347	October 26, 1976, Emerg; August 26, 1977, Reg; January 6, 2011, Susp.	.....do	Do.
Marne, City of, Cass County	190348	September 11, 2008, Emerg; January 6, 2011, Reg; January 6, 2011, Susp.	.....do	Do.
Massena, City of, Cass County	190349	January 15, 2008, Emerg; January 6, 2011, Reg; January 6, 2011, Susp.	.....do	Do.
Missouri:				
Calhoun, City of, Henry County	290622	November 7, 1975, Emerg; August 19, 1985, Reg; January 6, 2011, Susp.	.....do	Do.
Cedar County, Unincorporated Areas	290791	N/A, Emerg; April 11, 2006, Reg; January 6, 2011, Susp.	.....do	Do.
Clinton, City of, Henry County	290155	June 25, 1975, Emerg; July 4, 1988, Reg; January 6, 2011, Susp.	.....do	Do.
Henry County, Unincorporated Areas	290804	January 29, 2007, Emerg; January 6, 2011, Reg; January 6, 2011, Susp.	.....do	Do.
Stockton, City of, Cedar County	290667	N/A, Emerg; September 25, 2003, Reg; January 6, 2011, Susp.	.....do	Do.
Windsor, City of, Henry County	290156	March 30, 1976, Emerg; September 18, 1985, Reg; January 6, 2011, Susp.	.....do	Do.
Region IX				
California: Gridley, City of, Butte County	060019	N/A, Emerg; April 25, 1997, Reg; January 6, 2011, Susp.	.....do	Do.

*do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: December 7, 2010.
Sandra K. Knight,
Deputy Federal Insurance and Mitigation Administrator, Mitigation.
[FR Doc. 2010-32106 Filed 12-21-10; 8:45 am]
BILLING CODE 9110-12-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[ET Docket No. 10-152; FCC 10-194]

Satellite Television Extension and Localism Act of 2010 and Satellite Home Viewer Extension and Reauthorization Act of 2004

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission, adopts a point-to-point predictive model for determining the ability of individual locations to receive an over-the-air digital television

broadcast signal at the intensity level needed for service through the use of an antenna as required by the Satellite Television Extension and Localism Act of 2010 (STELA). The STELA reauthorizes the Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA) by extending the statutory copyright license for satellite carriage of distant broadcast signals, as well as provisions in the Communications Act, and by amending certain provisions in the Communications Act and the Copyright Act.

DATES: Effective January 21, 2011.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, ET Docket No. 10-152, FCC

10-194, adopted November 22, 2010 and released November 23, 2010. 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., 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>.

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Summary of Report and Order

1. The Satellite Television Extension and Localism Act of 2010 (STELA) reauthorizes the Satellite Home Viewer Extension and Reauthorization Act of

2004 (SHVERA) by extending the statutory copyright license for satellite carriage of distant broadcast signals, as well as provisions in the Communications Act, and amending certain provisions in the Communications Act and the Copyright Act. To implement the new statutory regime, the STELA, *inter alia*, requires the Commission to “develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in § 73.622(e)(1) of [its rules], or a successor regulation, including to account for the continuing operation of translator stations and low power television stations.” In this action, the Commission has adopted a point-to-point predictive model for determining the ability of individual locations to receive an over-the-air digital television broadcast signal at the intensity level needed for service through the use of an antenna as required by the STELA. The new digital ILLR model will be used as a means for reliably and presumptively determining whether individual households are eligible to receive the signals of distant network-affiliated digital television stations, including TV translator and low power television stations, from their satellite carrier. The predictive model the Commission adopts, which is based on the current model for predicting the intensity of analog television signals at individual locations, will allow such determinations to be made in a timely and cost effective manner for all parties involved, including network TV stations, satellite carriers and satellite subscribers. The Commission is also providing a plan for the model’s continued refinement by use of additional data as it may become available. Under that plan, refinements based on additional data may be proposed by referencing the docket of this proceeding, which will be held open indefinitely for this purpose. Consistent with this intention to refine the model as new information becomes available, the Commission has also initiated a *Further Notice of Proposed Rulemaking* published elsewhere in this issue, in this proceeding to request comment on possible modifications to the methodology in the digital ILLR model to improve its predictive accuracy as suggested by one of the parties responding to the *Notice of Proposed Rulemaking* (NPRM), 75 FR 46885, August 4, 2010, in this proceeding.

2. As directed by Congress in the STELA, the Commission is adopting a new digital ILLR model for predicting the ability of individual locations to receive, through use of an antenna, an over-the-air digital television broadcast signal in accordance with the intensity standards specified in § 73.622(e)(1) of our rules. This new model will be established in the Commission’s rules as the point-to-point model for presumptively determining the ability of individual locations to receive with an antenna the digital signals of full service television stations, low power television stations (including digital Class A stations) and TV translator stations. Consistent with the specifications in the STELA, the Commission is basing this new model on the SHVIA ILLR model that it adopted in CS Docket No. 98–201, Report and Order, 64 FR 7113, February 12, 1999, as revised previously, for use in predicting the signal strengths of analog television signals. The new digital ILLR model incorporates parameters and features appropriate for prediction of the signal strengths of digital television signals. The Commission also adopts a procedure for continued refinement of this model through use of additional data and information as it may become available. As part of that effort, the Commission requested comment on possible revisions to the digital ILLR model in the *Further Notice of Proposed Rulemaking*, published elsewhere in this issue, adopted November 22, 2010 in this proceeding.

3. In developing the new model, the Commission considered, in addition to the modifications necessary to enable the model to predict digital television signal strengths, three ways in which the STELA revises the definition of “unserved household”: (1) The definition now references an “antenna” without specifying the kind of antenna or where it is located; (2) the definition specifically recognizes both a “primary stream” and a “multicast stream” affiliated with a network; and (3) the definition now limits network stations whose signals are to be considered to those network affiliates in the same DMA as the subscriber. The new STELA digital ILLR model and its specifications are described in OET’s new “OET Bulletin No. 73” in Appendix A of the Report and Order.

A. The ILLR Model for Digital Television Signals

4. The Commission is adopting the methodology and parameters for describing the basic radiofrequency environment of the SHVIA ILLR model as proposed in the NPRM for the digital

ILLR model. As indicated by the Broadcasters and CDE, the methodology in the ILLR model as modified over time has been time-tested and proven successful. The Commission expects that the new digital ILLR model will provide the same reliable and accurate predictions of signal availability as the analog SHVIA ILLR model. Like its predecessor, the new model incorporates features to account for the radio propagation environment through which television signals pass and the receiving systems used by consumers. These features are described in the “planning factors” that describe a set of assumptions for digital and analog television reception systems. Since digital and analog television signals are transmitted in the same frequency bands, the planning factors affecting basic propagation of signals using the two different modulation methods and the background noise level are the same. The Commission is not modifying in the digital ILLR model any of the parameters of the SHVIA ILLR model that describe basic propagation and the background noise levels. The planning factors that are different for digital and analog signals include antenna location (outdoor vs. indoor) and performance, time and location variability, and land use and land cover. The Commission’s decisions on each of these features in the digital ILLR model are discussed. The Commission also observes that the planning factor differences for antenna location and performance and for time and location variability are incorporated into the threshold signal level for reception for digital television service, which the STELA directs to be set at the noise-limited levels specified in § 73.622(e)(1).

5. The Commission is not including adjustments to account for interference and multipath in the digital ILLR model. As the Commission observed in its 2005 Report to Congress, a receiver’s ability to provide service in the presence of interfering signals is not relevant to the field strength needed to provide service. While the presence of other signals on the same or adjacent channels does have the potential for disrupting service, the effects of other signals are a separate matter from the basic functioning of a receiver in an interference-free environment that forms the basis for the Commission’s field strength standards. With regard to multipath, in the 2005 Report to Congress, the Commission finds that while the sensitivity of television receivers may degrade to a small degree when they process multipath signals, the difficult multipath conditions under which

degradation of as much as 2 dB could occur are not expected to be the norm. Moreover, the incidence of multipath varies significantly over very short distances and the level of multipath and its character is generally not a predictable factor. Further, the Commission sees no indication in the STELA that Congress intended that it add interference or multipath consideration to the signal strength standard. The Commission also observes that at locations where interference or multipath are present, consumers can often take steps such as repositioning or re-orienting their antenna to resolve the impact and achieve reception. Accordingly, the Commission finds no basis or need for including adjustments to the digital ILLR model for interference or multipath.

6. The Commission is not adopting the revisions to the estimating methodology proposed by Mr. Shumate as it has not had an opportunity to fully explore the changes he suggests. Therefore, the Commission is not addressing his proposals for improving the ILLR methodology in the Further Notice of Proposed Rulemaking herein. Nonetheless, the Commission believes there may be merit in the improvements he describes for the methodology for predicting digital television signal strengths at individual locations and perhaps more generally, and that they warrant further investigation as possible modifications to the digital ILLR model. The Commission will explore these improvements through a Further Notice of Proposed Rulemaking that is included in the instant action. It also is not acting on Adaptrum's suggestion that we allow optional use of the digital ILLR model for prediction of signal strengths for purposes of identifying unused spectrum in the TV bands where unlicensed devices could operate as it is beyond the scope of this proceeding.

7. *Antenna Location and Performance.* In the NPRM, the Commission proposed to use the current standard for an outdoor antenna as specified in the DTV planning factors in OET Bulletin No. 69 for predicting digital television signal strengths at individual locations, citing the information and conclusions regarding outdoor and indoor antennas in the 2005 Report to Congress. As set forth in the OET Bulletin No. 73, the prediction model would use an antenna at 6 meters (20 feet) for one-story structures and 9 meters (30 feet) for structures taller than one story. Consistent with Congress' modification of the specification of the receiving antenna to simply say an "antenna," and its concern that using the outdoor antenna model may result in

instances where a consumer who either cannot use an outdoor antenna or cannot receive service using an outdoor antenna and is not able to receive a station's service with an indoor antenna will be found ineligible for satellite delivery of a distant network signal, the Commission again requested comments, suggestions and new information that would provide a solution for satellite television subscribers in such circumstances. In this regard, it indicated that it was particularly interested in new ideas and information that have been developed in the time since the 2005 Report to Congress.

8. The Commission concludes that the current standard for an outdoor antenna as specified in the digital television planning factors in OET Bulletin No. 69 and on which the digital television signal strength standards in § 73.622(e)(1) are based, at the alternative heights proposed in the NPRM, should be used as the basis for predicting digital television signal strengths at individual locations in the digital ILLR model. As discussed in the NPRM, Congress's use of the term "antenna" in the STELA grants the Commission greater flexibility to take into account different types of antennas than was previously available, without requiring the Commission to incorporate any particular type of antenna into the model. The Commission is not persuaded by the Broadcasters' arguments that the omission of the word "outdoor" from the antenna description in the STELA has no significance and that the Commission is required to assume use of an outdoor antenna in predicting digital television signal strengths. While they are correct that the STELA directs the Commission to rely on the ILLR model recommended with respect to digital signals in the 2005 Report to Congress, which assumes use of an outdoor antenna, the Commission believes that STELA's use of the term "rely" provides us latitude in the manner in which the ILLR model is implemented. Their argument that the Commission must specify an outdoor antenna because the minimum signal strengths specified by the STELA are premised on use of an outdoor antenna (through the digital television planning factors), is similarly not persuasive in that, as DIRECTV/DISH observe, other specifications of parameters that include an indoor antenna are possible while still adhering to those signal strengths as the standard.

9. The Commission also is not persuaded by DIRECTV/DISH's arguments that Congress' deletion of the qualifiers specifying a "conventional, stationary, outdoor rooftop receiving

antenna" from the definition of an "unserved household" from the STELA means that a household is now unserved if it cannot receive a signal of sufficient strength by means of a simple indoor antenna. Again, it believes that this change simply affords the Commission latitude to consider all types of antennas in implementing the digital ILLR model. Even assuming that DIRECTV/DISH are correct that more consumers are now using indoor antennas, their argument that Congress was responding to greater use of indoor antennas by consumers misses the fact that consumers are only using indoor antennas where such antennas provide service. As observed in the 2005 Report to Congress, the Commission has always assumed that households will use the type of antenna that they need to achieve service; if an indoor antenna is insufficient for a particular household, it generally will rely on a rooftop antenna. Nothing in the STELA reflects a Congressional intent for the Commission to abandon that assumption. Thus, the Commission disagrees that households that are not able to receive service with an indoor antenna should be considered unserved simply because they do not use an outdoor antenna. The Commission has considered the full range of antenna options in developing the digital TV ILLR prediction model.

10. Turning to the specification of antennas in the prediction model, the Commission finds that an approach that specifies an outdoor antenna at 6 meters above ground for one-story structures and 9 meters above ground for taller structures (household roof-top levels) with gain as specified in the digital television planning factors is most consistent with the directives for the digital TV signal strength prediction model set forth in the STELA. The Commission reached this conclusion for the following reasons. First, given that the STELA specifies use of the digital television signal strength standard in § 73.622(e)(1) of the rules as the threshold metric against which predictions are to be compared to make determinations of "served" and "unserved," it is important and necessary that the signal strengths predicted by the model can be meaningfully compared to that standard. To provide for such comparisons, the signals whose strengths are predicted by the model must have the same qualities as the signal specified in the standard. This can occur only if the assumptions underlying the signal strength needed for reception as described by the

standard are the same as the assumptions underlying the signal predicted by the model and their relationship is well defined, so that the two represent the same conditions of reception. The § 73.622(e)(1) digital television signal strength standard is derived from the assumptions in the digital television planning factors as described in OET Bulletin No. 69 and those assumptions include an outdoor antenna as described above. This signal strength standard is important under the Commission's rules because it serves to define the service boundary or "service contour" of a digital television station and the threshold at which a station's service is considered to be available in areas within that service contour. Congress specified this same signal strength standard for defining "served" and "unserved" locations for purposes of determining households' eligibility for satellite delivery of distant network signals in the STELA. For these reasons, the Commission agrees with the Broadcasters that it is appropriate to incorporate into the digital ILLR model the assumptions in the planning factors in OET Bulletin No. 69, including the specified outdoor antenna, to obtain predictions of signal strength for comparison to the standard specified in the STELA.

11. The Commission also rejects DIRECTV/DISH's proposed adjustments to the signal strength standard to account for differences in the expected signal level and in the gain of indoor and outdoor antennas. It finds that application of these adjustments would significantly alter the digital television service description as defined in the § 73.622(e)(1) signal strength standard by reducing the likelihood that a given location would be predicted to receive service. Under the plan they propose, between 36.7 dB and 46.7 dB (depending on whether the location is in an urban area), or more, would be subtracted from the prediction calculated by the ILLR model for locations that do not have an outdoor antenna. They do not offer any additional modifications to the model or its assumptions to compensate for this proposed change in the signal strength standard; nor are we aware of any modifications that would provide such compensation. In application, DIRECTV/DISH's proposal would raise the signal strength needed for reception of UHF signals from 41 dBµV/m to between 77.7 dBµV/m and 87.7 dBµV/m for households without outdoor antennas. Such a change could, as the broadcasters observe, drastically increase the number of households

eligible for satellite delivery of distant network signals by allowing viewers to claim use of an indoor antenna when such viewers generally could in fact receive service using an outdoor antenna. Notwithstanding the difficulties in developing a model that would provide accurate and reliable indoor predictions, the Commission is concerned that many satellite subscribers who could use an outdoor antenna would have an incentive to take the "easy path" and simply report that they cannot use an outdoor antenna and thereby be evaluated under the indoor antenna standard, when in fact they could readily receive a station's service with outdoor antenna. For example, subscribers located within a station's service area but at distances from its transmitter where indoor reception is not possible could simply assert that they cannot use an outdoor antenna and thus be eligible to receive a distant network signal. This would remove large numbers of viewers from local stations potential audience. In view of Congress' selection of the § 73.622(e)(2) signal strength standard as the threshold for distant signal eligibility in the STELA, the Commission does not believe that Congress envisioned or contemplated such an increase in the numbers of satellite subscribers eligible for delivery of distant network signals.

12. In addition, as the Commission discussed in the 2005 Report to Congress and the NPRM, there are significant difficulties in achieving accurate and reliable estimates of digital television signal strengths in indoor environments, which make it very difficult if not impossible to obtain accurate and reliable predictions of digital television signal strengths indoors. The Commission is concerned that simplification of indoor antenna reception to a single set of circumstances as suggested by DIRECTV/DISH and Mr. Kurby would ignore the significant differences that exist in indoor reception scenarios, particularly with respect to attenuation of signals due to the materials with which a building is constructed, which vary substantially in the degree to which they absorb or reflect signals, and the antenna's location within the structure, which affects the number and pathways of structural features (walls or ground in the case of basements) that signals must penetrate to reach the antenna. In this regard, the Commission also observes that in the DTV transition, it advised consumers of the wide variability in the performance of antennas generally and indoor antennas in particular in materials provided to

the public for the DTV transition. For example, the Commission noted that consumers having problems with indoor antennas needed to check the performance information for the antenna, move the antenna for best reception, place it near a window, as high as possible, away from electronic equipment and change the direction the antenna is facing. Further, the Commission advised that a roof-top antenna may be needed.

13. These differences in indoor reception scenarios are very difficult to account for properly in a model's input values and can also be challenging for a user of a model to assess so as to specify appropriate input values for any particular location. These factors together greatly reduce the reliability and accuracy of any indoor signal strength predictions that might be provided by a model. While the Commission understands that there are also variations in signal strength across outdoor receive locations due to terrain and the presence of man-made terrain features, including aspects of the structure on which an antenna is mounted, that variability is generally much less than the variability of signal strengths indoors which are affected by building materials and location within the building as well as the same terrain and man-made features that affect signals received outdoors. The Commission also expects that there would be an incentive for households in areas where service is not available with an indoor antenna to simply submit that they have an indoor antenna in order to be eligible for distant signal delivery when in fact they could receive that signal with an outdoor antenna under the standard specified in the STELA. This type of behavior would, to the extent it occurred, undermine broadcasters' coverage and complicate our administration of an indoor antenna standard. The Commission also is not persuaded that any of the options for modifying their proposed adjustments that DIRECTV/DISH have submitted in recent ex parte presentations would remedy the problems discussed. None of those suggestions would provide reliable and accurate estimates of indoor signal strengths; nor do they offer modifications that would compensate for the change their plan would make to digital signal strength standard set forth in the STELA. Accordingly, the Commission will use the current standard for an outdoor antenna as specified in the digital television planning factors in OET Bulletin No. 69 in the digital ILLR model.

14. Notwithstanding this decision, the Commission remains aware and

concerned that using the outdoor reception model may result in instances where a consumer who either cannot use an outdoor antenna or cannot receive service using an outdoor antenna and is not able to receive a station's service with an indoor antenna will be found ineligible for satellite delivery of a distant network signal. This concern is mitigated by new local-into-local offerings by satellite carriers, which the Commission believes will significantly reduce the number of instances where satellite subscribers would need to consider requesting delivery of distant network signals. Dish Network now provides local network stations (local-into-local service) in all 210 DMAs. In addition, DIRECTV now provides local-into-local service in all but 60 relatively small markets. The Commission recognizes that DIRECTV/DISH will still have to qualify some distant signals even after they provide local-into-local service in all 210 DMAs. However, the locations that they will not reach with local-into-local service are likely to be in areas with relatively small populations that are at the edge of some DMAs that are served by satellite service "spot beams" that provide localized service to the major portion of a DMA, including its center of population. Those populations are served by their carrier's larger regional coverage signals that do not have the local signals carried on the spot beams. Moreover, the areas not reached by the spot beams will generally be in less densely populated areas where there are generally fewer residences that are not able to use an outdoor antenna. In concluding that the outdoor antenna standard remains appropriate, the Commission has also considered that most subscribers who will request distant signals from their satellite carriers are likely to be in rural areas where use of outdoor antennas is more common and practical than in urban areas. Dish now serves all 210 DMAs and only a small number of Dish subscribers are beyond the spot beams serving those DMAs and therefore potentially eligible for distant signals. Although DIRECTV does not offer local stations in 60 DMAs, these are small market areas and mostly in rural areas where outdoor antennas are likely to be more prevalent.

15. The Commission also observes that under section 339(a)(2)(E) of the Communications Act, satellite TV subscribers who are denied delivery of a distant network signal based on the signal strength predictive model or a measurement may request a waiver, through the subscriber's satellite carrier,

from the station that asserts that such retransmission is prohibited. While the Commission does not know the extent to which stations have granted such waivers, the waiver process is available. It hopes that stations receiving such waiver requests will consider whether the subscriber is in an urban area or residing in a multiple dwelling unit, and therefore confined to reliance on an indoor antenna, and that the stations will act accordingly to grant the waiver request on a case-by-case basis in such circumstances. Finally, the Commission will remain open to consideration of new ideas, approaches and methods for identifying households that cannot use or receive service with an outdoor antenna that are predicted to be served by our digital ILLR predictive model. The Commission is holding this proceeding open for continued refinement of the digital TV ILLR Model, so parties may submit proposals for such new ideas, approaches and methods.

16. *Time and Location Variability Factors.* The field strength of radio signals, including television signals, at a given distance from a transmitter vary by location and with time due to factors affecting their propagation. The time and location (situational) variability factors are commonly represented using the notation "F(L,T)," where a signal of a specified strength level will be available at L percent of locations T percent of the time. The variations over time are also known as "fading." In the NPRM, the Commission proposed to use 50% as the location variability factor and 90% as the time variability factor in the digital ILLR model, in accordance with the DTV planning factors. The SHVIA ILLR model applicable to analog stations uses 50% as the location variability and 50% as the time variability factor.

17. The Commission continues to believe that the F(50,90) specifications for time and location variability set forth in the digital television planning factors are the appropriate values for those factors in the digital ILLR model. While the Commission understands DIRECTV/DISH's position that viewers desire service to be available nearly all the time and that digital television service does not degrade gradually, the fact is that the propagation paths of terrestrial broadcast television signals are much different than those of sky-based satellite signals and this affects the practically achievable degree of broadcast signal availability. As observed in the NPRM, terrestrial signals follow paths that are close to the surface and are attenuated by the natural and man-made surface features

they encounter along those paths. The attenuation caused by those features results in propagation conditions whereby signal strength varies statistically by location and time. The power and/or antenna height needed to improve broadcast television signal availability increase in a non-linear manner such that it is unrealistic to require such availability to approach 100%. These propagation conditions are much different than those faced by satellite signals, which travel over paths that are generally affected only by weather and other atmospheric conditions.

18. The F(50,90) values for digital television service availability were established based on an industry-Government consensus that relied on the traditional TV service model that worked well for analog TV service and that, as argued by the broadcasters, is also appropriate for digital TV service. Changing the time variability factor value to 99% reliability as requested by the satellite providers would greatly shrink the predicted local DTV service areas and would not reflect the capability of the vast majority of viewers to receive signals. Moreover, as pointed out by the Broadcasters and in MSW's Engineering Statement, the assumed 10% reduction in signal availability over time occurs at the outermost limit of a station's service area and is not the typical statistical figure for reliable reception across a station's entire service area. As the distance to a station's transmitter decreases, time availability of the signal above the noise-limited threshold value also increases. The Commission also observes that households at the edge of a station's service area can often improve their reception (and thereby reduce or eliminate periods when the station's signal is not available) by mounting their antennas higher, using higher gain antennas, or using low-noise pre-amplifiers at their antennas. In addition, it is more likely that a station's signal strength at a household that is located near the edge of its service area will be predicted to be below the threshold needed for reception and therefore eligible for delivery of a distant signal by its satellite provider. Accordingly, the Commission finds no basis for modifying the time variability factor for broadcast television signals for purposes of determining a household's eligibility for delivery of distant network signals and therefore will specify the time and availability factors in the digital ILLR model as F(50,90).

19. *Land Use and Land Cover Factors.* The land use and land cover (LULC) data provides information on building

structures and other man-made terrestrial features and on land cover features such as forests and open land that can affect radio propagation. Inclusion of this data in the prediction methodology of the SHVIA ILLR TV computer model significantly enhanced the accuracy and reliability of its signal strength predictions. The method for considering these land cover factors is to assign certain signal loss values, in addition to those already factored in the model for terrain variation, as a function of the LULC category of the reception point. More specifically, the field strength predicted by the basic Longley-Rice model is reduced by the clutter loss value associated with the respective LULC category. Reception point environments at individual locations are classified in terms of the codes used in the LULC database of the United States Geological Survey (USGS). In the *NPRM*, the Commission proposed to apply the LULC categories and clutter loss values for describing land use and land cover features in the digital TV ILLR model in the same manner as currently incorporated into the SHVIA ILLR model. These values were specified in the *SHVIA First Report and Order*.

20. The Commission concludes that the LULC categories and clutter loss values for describing land use and land cover features in the digital TV ILLR model should be applied in the digital ILLR in the same manner as currently applied in the SHVIA ILLR model. While the Commission understands the seeming inconsistency of using no LULC corrections for VHF signals, it has found previously that the clutter loss values used in the current SHVIA ILLR model, including zero values for VHF signals, strike the correct balance. Analysis of the data on the model's performance shows that using the values used in the SHVIA ILLR model produce approximately an equal number of over-predictions as under-predictions. Thus, the Commission has found a range of clutter values, including zero, that correspond to different land cover types are valid. It sees no merit in DIRECTV/DISH's argument that the studies used by the Commission in determining that the LULC adjustment for VHF signals should be zero were conducted in some of the flattest states in the country. Rather, the Commission finds that the 5 markets examined have varied terrain characteristics that are sufficient to represent the terrain in television markets across the nation. Also, at this time, the Commission is not aware of any LULC database that would provide

more refined or granular information on land use and land clutter than that provided by the USGS LULC database. In this regard, DIRECTV/DISH's suggestion to use Google Earth is not practical as that service provides does not provide data on terrain and surface clutter variation. The Commission also will not alter the LULC correction factors to add additional attenuation to account for lower antenna heights as the model will continue to use the same 30 foot (9 meters) and 20 foot (6 meters) antenna heights used in the SHVIA ILLR model. The Commission also finds that it would not be practical to introduce clutter height and density factors into the clutter calculations of the ILLR software at this time as suggested by Mr. Shumate. Also, there is no height and density information available for the current LULC data. Accordingly, the Commission will apply the land use and land cover categories and USGS clutter loss values for describing land use and land cover features in the digital TV ILLR model in the same manner as these elements are currently incorporated into the SHVIA ILLR model.

21. *Multicast program streams.* In the *NPRM*, the Commission stated that it believes that the proposed digital signal strength prediction model would account for multicast as well as primary streams that are transmitted by a station and affiliated with one or more networks. Therefore, it proposed to provide no special adjustment in the model to predict the availability of network signals that are transmitted on multicast streams, rather than on a station's primary program stream. In their comments, the Broadcasters agree with the Commission's position in the *NPRM* that all multicast streams can be treated equally for purposes of both prediction and measurement of signal strength. They note that all of the streams arrive on the same signal and at the same strength and that the different programming on multicast channels simply consists of different packets within a station's transport stream.

22. The Commission finds that there is no need for adjusting predictions from the digital ILLR model to reflect the added reference to network affiliated multicast streams in the STELA. The prediction of signal strength for a digital television broadcast signal applies regardless of the content, including the presence of multicast program streams. If a household is predicted to receive a station, then all of that station's program streams would be received equally. Accordingly, the Commission will not provide any special adjustment or procedure in the model for network

signals carried on multicast program streams.

B. Other Issues

23. *Previous findings of eligibility.* In the *NPRM*, the Commission proposed to uphold any previous findings of eligibility for delivery of distant signals based on the predictive model in the event that it were to update that model and a prediction from the updated model were to indicate that a previously unserved location could receive service from a local network station. In its comments, CDE observes that because of changes many television stations are still making to their digital operations, the potential situation arises for those stations that a lack-of-service determination under STELA may be rendered moot at a later date by an upgrade in their television facilities and improved off-the-air service. It asks that the Commission clarify how the predictive model is to be administered for those viewers who opted at one juncture to choose satellite service due to lack of off-the-air service but later are predicted to receive off-the-air service as a result of an upgrade to a stations facilities.

24. The Commission continues to believe that it is appropriate to "grandfather" the eligibility of households in cases where a location was predicted to be unserved by a local network station using an adopted version of the digital ILLR model and the household at that location is receiving a signal of that network from a distant station by its satellite provider. This provision will avoid disruption of the existing services to which households have been accustomed to receiving if the Commission updates the digital ILLR model or a station modifies its transmission facilities. This grandfathering will apply only in cases where the household already is receiving a distant signal from its satellite provider prior to a change in the digital ILLR prediction model or in the coverage of the local station.

25. *Analog Low Power TV and TV Translator Stations.* Although all full-service television stations converted fully to digital operation on June 12, 2009, TV translator and low power/Class A TV stations were not required to make that conversion and many of those stations continue to broadcast in analog format. In the *NPRM* the Commission, recognizing the provisions of Section 205 of the STELA and that many TV translators and low power TV stations continue to transmit analog signals, tentatively concluded that it would continue to apply the existing analog SHVIA ILLR model specified in

OET Bulletin No. 72 for predicting signal strengths in distant network eligibility cases involving TV translator and low-power/Class A television stations that use the analog TV standard to broadcast their own programming or to retransmit the content of local digital network stations. In their comments, the Broadcasters support the Commission's proposal to continue to use the analog SHVIA ILLR model for LPTV, Class A, and translator stations that are still broadcasting using the analog transmission standard. They state that, to the extent such stations continue broadcasting in analog, it makes sense to continue to use the Commission's existing tools for predicting analog signal reception, including OET Bulletin 72. They state that those tools have worked well for years and there is no reason not to continue to employ them with this category of stations.

26. Consistent with Section 205 of the STELA, the Commission will continue to apply the methods in OET Bulletin No. 72 for predicting the signal strengths of TV translator and low power/Class A stations that operate using the analog TV standard. It sees no reason or basis for changing from the use of the SHVIA ILLR model for obtaining predictions of signal strength for determining eligibility for satellite delivery of distant network signals for those stations.

27. *Procedure for Continued Refinement of the Digital TV ILLR Model.* The STELA requires that the Commission establish procedures for continued refinement in the application of the digital TV ILLR model through use of additional data as it becomes available. In the *NPRM*, the Commission proposed to comply with this requirement by establishing a procedure under which it would consider possible changes to OET Bulletin No. 73 (which describes the model and is referenced in the rules) to implement improvements to the model. The commenting parties did not address our proposals for the procedures for continued refinement of the application of the digital TV ILLR model.

28. The Commission continues to believe the most efficient, effective, fair, transparent and timely approach for revising the digital TV ILLR model if new information becomes available is to hold open the docket in this proceeding and then conduct further rule making as proposed in the *NPRM*. This plan is consistent with the Commission's past action concerning the SHVIA model. Given that the digital ILLR model is being incorporated into its rules, the Commission believes that this plan also is consistent with the requirements of

section 553 of the Administrative Procedures Act. Parties with new data, analysis or other information relating to improving the predictive model will be able to submit requests to modify the model in the instant docket. The Commission has instructed OET to evaluate such requests and, as appropriate, prepare a Notice of Proposed Rulemaking for consideration by the Commission. The Commission also could initiate rulemaking action on its own motion.

29. *Stations to Consider for Distant Signals.* Under the SHVIA and the SHVERA, the predicted signal strengths of all the stations affiliated with the same network were considered, regardless of those stations' DMAs. That is, if a satellite subscriber desired to receive the distant signal of the "XYZ" network, then the predicted results from any stations affiliated with the XYZ network would be analyzed for that subscriber's location. If one or more of those affiliated stations were predicted to deliver a signal of the requisite intensity, the subscriber would be predicted "served" by that network and not eligible for a distant signal from that network unless each of the stations predicted to serve the subscriber granted a waiver. Section 102 of the STELA changes this regime by specifying that only "local" stations are to be considered, *i.e.*, stations that are located in the same DMA as the satellite subscriber. In the *NPRM*, the Commission proposed to address this statutory modification by changing the way the digital ILLR model's results are to be used, rather than through a change in the digital TV ILLR model itself that would limit the signals examined to those located in the same DMA as the subscriber. That is, instead of having the computer software for the model limit consideration of network stations to any such stations in the subscriber's DMA that the model predicts to be available, the Commission proposed to amend its rules to specify that satellite carriers are required to consider only the signals of network stations located in the subscriber's DMA in determining whether a subscriber is eligible for delivery of distant network signals. The commenting parties did not address this issue.

30. The Commission is adopting its proposal to address the statutory change to limit the network stations to be considered in satellite signal delivery eligibility cases to those stations that are located in the same DMA as the satellite subscriber by amending its rules to specify that eligibility determinations are to consider only the signals of network stations located in the

subscriber's DMA. The Commission notes that this statutory change will also reduce the burden associated with distant network signal eligibility waiver requests by reducing the number of stations from which a waiver would need to be requested. In addition, this change will reduce the burden of on-site measurement of signal strengths where such tests are performed for the purpose of determining a satellite subscriber's eligibility to receive distant signals.

Procedural Matters

Final Regulatory Flexibility Analysis

31. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (NPRM)* to this proceeding.² The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis ("FRFA") conforms to the RFA.³

A. *Need for and Objectives of the Report and Order.* In this Report and Order, we are adopting a point-to-point predictive model for determining the ability of individual locations to receive an over-the-air digital television broadcast signal at the intensity level needed for service through the use of an antenna as required by the STELA.⁴ The new digital ILLR model will be used as a means for reliably and presumptively determining whether individual households are eligible to receive the signals of distant network-affiliated digital television stations, including TV translator and low power television stations, from their satellite carrier. The

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"), Public Law 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 *Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004*, 20 FCC Rcd 2983, Appendix C (2005) (*NPRM*).

³ See 5 U.S.C. 604.

⁴ In its implementation provisions, the STELA also requires that the Commission issue an order completing its rulemaking to establish a procedure for on-site measurement of digital television signals in ET Docket No. 06-94. 47 U.S.C. 339(c)(3)(B). In the *Notice of Proposed Rulemaking (NPRM)* and *Further Notice of Rulemaking (FNPRM)* preceding the instant Report and Order, the Commission requested additional comment in the ET Docket No. 06-94 signal measurement proceeding. We are today, in a separate action in that docket, issuing a *Report and Order* to establish the required procedure for on-site measurement of digital television signals. See *Report and Order* in ET Docket No. 06-94, FCC 10-195, adopted November 22, 2010.

predictive model we are adopting, which is based on the current model for predicting the intensity of analog television signals at individual locations, will allow such determinations to be made in a timely and cost effective manner for all parties involved, including network TV stations, satellite carriers and satellite subscribers. We are also providing a plan for the model's continued refinement by use of additional data as it may become available. Under that plan, refinements based on additional data may be proposed by referencing the docket of this proceeding, which will be held open indefinitely for this purpose. Consistent with this intention to refine the model as new information becomes available, we are also initiating a Further Notice of Proposed Rulemaking herein to request comment on possible modifications to the methodology in the digital Individual Location Longley-Rice (ILLR) model to improve its predictive accuracy as suggested by one of the parties responding to the NPRM in this proceeding.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA: There were no comments filed that specifically addressed the rules and policies propose in the IRFA.

C. Description and Estimates of the Number of Small Entities to Which the Rules will apply: The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein.⁵ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁶ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁷ 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).⁸

Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.⁹ A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."¹⁰ Nationwide, as of 2002, there were approximately 1.6 million small organizations.¹¹ The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."¹² Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.¹³ We estimate that, of this total, 84,377 entities were "small governmental jurisdictions."¹⁴ Thus, we estimate that most governmental jurisdictions are small.

Cable Television Distribution Services. The "Cable and Other Program Distribution" census category includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband

Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry." The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: All such firms having \$13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under \$10 million, and 43 firms had receipts of \$10 million or more but less than \$25 million. Thus, the majority of these firms can be considered small.

Direct Broadcast Satellite (DBS) Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, the Commission relies on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with \$13.5 million or less in annual receipts. Currently, only two operators—DirecTV and EchoStar Communications Corporation (EchoStar)—hold licenses to provide DBS service, which requires a great investment of capital for operation. Both currently offer subscription services and report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, the Commission believes it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, the Commission acknowledges the possibility that there are entrants in this field that may not yet have generated \$13.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

Television Broadcasting. The rules and policies apply to television broadcast licensees and potential licensees of television service. The SBA defines a television broadcast station as

⁹ See SBA, Office of Advocacy, "Frequently Asked Questions," <http://web.sba.gov/faqs/faqindex.cfm?areaID=24> (revised Sept. 2009).

¹⁰ 5 U.S.C. 601(4).

¹¹ Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

¹² 5 U.S.C. 601(5).

¹³ U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, page 272, Table 415.

¹⁴ We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

⁵ 5 U.S.C. 603(b)(3), 604(a)(3).

⁶ *Id.*, 601(6).

⁷ 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 such terms which are appropriate to the activities of the agency and publishes such definitions(s) in the *Federal Register*."

⁸ 15 U.S.C. 632.

a small business if such station has no more than \$14 million in annual receipts.¹⁵ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”¹⁶ The Commission has estimated the number of licensed commercial television stations to be 1,392.¹⁷ According to Commission staff review of the BIA/Kelsey, MPro Television Database (BIA) as of April 7, 2010, about 1,015 of an estimated 1,380 commercial television stations¹⁸ (or about 74 percent) have revenues of \$14 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed non-commercial educational (NCE) television stations to be 390.¹⁹ We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations²⁰ 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. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

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 estimates 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.

Class A TV, LPTV, and TV translator stations. The rules and policies adopted in this Report and Order include licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as 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 \$14 million in annual receipts.²¹ Currently, there are approximately 537 licensed Class A stations, 2,386 licensed LPTV stations, and 4,359 licensed TV translators.²² 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 \$14 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 Requirement for Small Entities. We are adopting the methodology and parameters for describing the basic radiofrequency environment of the SHVIA ILLR model as proposed in the NPRM for the digital ILLR model. As indicated by the Broadcasters and CDE, the methodology in the ILLR model as modified over time has been time-tested

and proven successful. We expect that the new digital ILLR model will provide the same reliable and accurate predictions of signal availability as the analog SHVIA ILLR model. Like its predecessor, the new model incorporates features to account for the radio propagation environment through which television signals pass and the receiving systems used by consumers. These features are described in the “planning factors” that describe a set of assumptions for digital and analog television reception systems.²³ Since digital and analog television signals are transmitted in the same frequency bands, the planning factors affecting basic propagation of signals using the two different modulation methods and the background noise level are the same. We therefore have not modified in the digital ILLR model any of the parameters of the SHVIA ILLR model that describe basic propagation and the background noise levels. The planning factors that are different for digital and analog signals include antenna location (outdoor vs. indoor) and performance, time and location variability, and land use and land cover. We also observe that the planning factor differences for antenna location and performance and for time and location variability are incorporated into the threshold signal level for reception for digital television service, which the STELA directs to be set at the noise-limited levels specified in § 73.622(e)(1).

E. Steps Taken to Minimize Significant Economic 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

²³ The planning factors for analog television assume a height of 30 feet, which is slightly different from the height of 10 meters (33 feet) used in the digital planning factors. The planning factors for analog TV are provided in Robert A. O’Connor, “Understanding Television’s Grade A and Grade B Service Contours,” *IEEE Transactions on Broadcasting*, Vol. BC-14, No. 4, December 1968 (O’Connor) at page 142; the planning factors of digital TV are set forth in OET Bulletin No. 69 at Table 3.

¹⁵ See 13 CFR 121.201, NAICS Code 515120.

¹⁶ *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.

¹⁷ See News Release, “Broadcast Station Totals as of December 31, 2009,” 2010 WL 676084 (F.C.C.) (dated Feb. 26, 2010) (*Broadcast Station Totals*); also available at <http://www.fcc.gov/mb/>.

¹⁸ We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra* note 446; however, we are using BIA’s estimate for purposes of this revenue comparison.

¹⁹ See *Broadcast Station Totals*, *supra* note 239.

²⁰ “[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 the power to control both.” 13 CFR 121.103(a)(1).

²¹ See 13 CFR 121.201, NAICS Code 515120.

²² See *Broadcast Station Totals*, *supra* note 239.

coverage of the rule, or any part thereof, for small entities.²⁴

We are not adopting the revisions to the estimating methodology proposed by Mr. Shumate as we have not had an opportunity to fully explore the changes he suggests.²⁵ Nonetheless, we believe there may be merit in the improvements he describes for the methodology for predicting digital television signal strengths at individual locations and perhaps more generally, and that they warrant our further investigation as possible modifications to the digital ILLR model. We are therefore addressing his proposals for improving the ILLR methodology in the Further Notice of Proposed Rulemaking herein. We also are not acting on Adaptrum's suggestion that we allow optional use of the digital ILLR model for prediction of signal strengths for purposes of identifying unused spectrum in the TV bands where unlicensed devices could operate as it is beyond the scope of this proceeding.²⁶

32. *Report to Congress:* The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.²⁷ In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA.

33. *Paperwork Reduction Act Analysis:* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

²⁴ 5 U.S.C. 603(c).

²⁵ See para.16 of the Report and Order, FCC 10-194.

²⁶ See para.17 of the Report and Order, FCC 10-194.

²⁷ See 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

34. Pursuant to sections 1, 4, 301, and 339(c)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 339(c)(3), and section 119(d)(10)(a) of the Copyright Act, 17 U.S.C. 119(d)(10)(a), this *report and order is hereby adopted.*

35. Part 73 of the Commission's rules is amended as specified in Appendix A and such rule amendment shall be effective January 21, 2011.

36. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *report and order*, including the Initial Regulatory Flexibility Certification, and IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Communications equipment, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends Part 73 to read as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

■ 2. Section 73.683 is amended by revising paragraphs (d) and (e) to read as follows:

§ 73.683 Field strength contours and presumptive determination of field strength at individual locations.

* * * * *

(d) For purposes of determining the eligibility of individual households for satellite retransmission of distant network signals under the copyright law provisions of 17 U.S.C. 119(d)(10)(A),

field strength shall be determined by the Individual Location Longley-Rice (ILLR) propagation prediction model. Such eligibility determinations shall consider only the signals of network stations located in the subscriber's Designated Market Area. Guidance for use of the ILLR model in predicting the field strength of analog television signals for such determinations is provided in OET Bulletin No. 72 (stations operating with analog signals include some Class A stations licensed under part 73 of this chapter and some licensed low power TV and TV translator stations that operate under part 74 of this chapter). Guidance for use of the ILLR model in predicting the field strength of digital television signals for such determinations is provided in OET Bulletin No. 73 (stations operating with digital signals include all full service stations and some Class A stations that operate under part 73 of this chapter and some low power TV and TV translator stations that operate under Part 74 of this chapter). OET Bulletin No. 72 and OET Bulletin No. 73 are available at the FCC's Headquarters Building, 445 12th St., SW., Reference Information Center, Room CY-A257, Washington, DC, or at the FCC's Office of Engineering and Technology (OET) Web site: <http://www.fcc.gov/oet/info/documents/bulletins/>.

(e) If a location was predicted to be unserved by a local network station using a version of the ILLR model specified in OET Bulletin No. 72 or OET Bulletin No. 73, as appropriate, and the satellite subscriber at that location is receiving a distant signal affiliated with the same network from its satellite provider, the satellite subscriber shall remain eligible for receiving the distant signal from its satellite provider if that location is subsequently predicted to be served by the local station due to either a change in the ILLR model or a change in the station's operations that change its coverage.

* * * * *