

quotations shall be single-spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods, other than letter press, or printed. The foregoing shall not apply to official publications. All copies must be clearly legible.

\* \* \* \* \*

■ 15. Section 63.701 is amended by revising the introductory text and adding paragraph (j) to read as follows:

**§ 63.701 Contents of Application.**

Except as otherwise provided in this part, any party requesting designation as a recognized operating agency within the meaning of the International Telecommunication Convention shall file a request for such designation with the Commission. A request for designation as a recognized operating agency within the meaning of the International Telecommunication Convention shall include a statement of the nature of the services to be provided and a statement that the party is aware that it is obligated under Article 6 of the ITU Constitution to obey the mandatory provisions thereof, and all regulations promulgated thereunder, and a pledge that it will engage in no conduct or operations that contravene such mandatory provisions and that it will otherwise obey the Convention and regulations in all respects. The party must also include a statement that it is aware that failure to comply will result in an order from the Federal Communications Commission to cease and desist from future violations of an ITU regulation and may result in revocation of its recognized operating agency status by the United States Department of State. Such statement must include the following information where applicable:

\* \* \* \* \*

(j) Subject to the availability of electronic forms, all filings described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 of this chapter and the IBFS homepage at <http://www.fcc.gov/ibfs>. See also §§ 63.20 and 63.53.

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

■ 16. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104-104, 110

Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

■ 16a. Section 64.1001 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

**§ 64.1001 Requests to modify international settlement arrangements.**

(a) The procedures set forth in this rule apply to carriers that are required to file with the International Bureau, pursuant to § 43.51(e) of this chapter, requests to modify international settlement arrangements. Any operating agreement or amendment for which a modification request is required to be filed cannot become effective until the modification request has been granted under paragraph (e) of this section.

\* \* \* \* \*

(f) Subject to the availability of electronic forms, all modifications and related submissions described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 of this chapter and the IBFS homepage at <http://www.fcc.gov/ibfs>. See also §§ 63.20 and 63.53.

■ 17. Section 64.1002 is amended by revising paragraph (c) and adding paragraph (e) to read as follows:

**§ 64.1002 International settlements policy.**

\* \* \* \* \*

(c) A carrier that seeks to add a U.S. international route to the list of routes that are exempt from the international settlements policy must make its request to the International Bureau, accompanied by a showing that a U.S. carrier has entered into a benchmark-compliant settlement rate agreement with a foreign carrier that possesses market power in the country at the foreign end of the U.S. international route that is the subject of the request. The required showing shall consist of an effective accounting rate modification, filed pursuant to § 64.1001, that includes a settlement rate that is at or below the Commission's benchmark settlement rate adopted for that country in IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19,806, 62 FR 45758, Aug. 29, 1997, available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

\* \* \* \* \*

(e) Subject to the availability of electronic forms, all filings described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are

available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 of this chapter and the IBFS homepage at <http://www.fcc.gov/ibfs>. See also §§ 63.20 and 63.53.

\* \* \* \* \*

[FR Doc. 05-12937 Filed 7-5-05; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 15**

[ET Docket No. 05-24; FCC 05-121]

**DTV Tuner Requirements**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document modifies the schedule by which new broadcast television receivers with screen sizes 25-36" are required to include the capability to receive over-the-air digital television (DTV) broadcast signals. This action was initiated in response to a Petition for Rulemaking from the Consumer Electronics Association and the Consumer Electronics Retailers Association (CEA-CERC) requesting that we eliminate the 50 percent requirement for the 25-36" mid-size receivers and instead advance the date by which 100 percent of these receivers would include DTV tuners to March 1, 2006. This action will serve to minimize any difficulties with the 50 percent provision at the earliest practicable date and will also serve to promote the expeditious completion of the transition from analog to digital broadcast television service.

**DATES:** Effective August 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** Alan Stillwell, Office of Engineering and Technology, (202) 418-2925, e-mail: [Alan.Stillwell@fcc.gov](mailto:Alan.Stillwell@fcc.gov), TTY (202) 418-2989.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, ET Docket No. 05-24, FCC 05-121, adopted June 9, 2005, and released June 9, 2005. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and

Printing Inc., Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

### Congressional Review Act

The Commission will send a copy of this Report & Order, in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

### Summary of the Report and Order

1. In the *Report and Order* (R&O), the Commission modified the schedule by which new broadcast television receivers with screen sizes 25–36" are required to include the capability to receive over-the-air digital television (DTV) broadcast 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. The DTV reception requirement, which is also often termed the "DTV tuner requirement," is being implemented by applying the requirement first to large screen receivers and then progressively to smaller screen units and other devices over a period of several years. The decision maintains the existing plan to require that 50 percent of 25–36" receivers that are imported or shipped in interstate commerce include DTV tuners beginning July 1, 2005, but modifies the date on which 100 percent of such receivers must include DTV tuners by advancing that date from July 1, 2006, to March 1, 2006. The action was initiated in response to a Petition for Rulemaking from the Consumer Electronics Association and the Consumer Electronics Retailers Association (CEA–CERC) requesting that we eliminate the 50 percent requirement for the 25–36" mid-size receivers and instead advance the date by which 100 percent of these receivers would include DTV tuners to March 1, 2006. While we understand CEA–CERC's concern that the 50 percent requirement may have posed some difficulties for manufacturers and retailers, we nonetheless concluded that maintaining this approach for the mid-size 25–36" receivers prior to March 1, 2006, will most effectively ensure that DTV tuner equipped sets are available to consumers this year, and especially for the 2005 holiday and 2006 Super Bowl seasons. In this regard, we continue to believe that it is essential that DTV reception capability be provided to consumers in new TV receivers as rapidly as possible in order to promote

an expeditious completion of the transition from analog to digital broadcast television service. We also concluded that advancing the date by which all 25–36" receivers must include DTV reception capability to March 1, 2006, will serve to minimize any difficulties with the 50 percent provision at the earliest practicable date and will also serve to expedite the provision of DTV reception capability to consumers.

2. In their petition for rulemaking, CEA–CERC requested that we eliminate the July 1, 2005, requirement for 50 percent of TV receivers with screen sizes 25–36" to include DTV reception capability and instead advance from July 1, 2006, to March 1, 2006, the date for all such receivers to include a DTV tuner. CEA–CERC submitted that manufacturers' and retailers' experience with the 50 percent provision for 36" and larger receivers is that the 50 percent aspect of the phase-in plan is antithetical to the purpose of the DTV tuner requirement. They stated 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 indicated that this is because the experience with 36" and larger sets is that consumers typically choose a lower-priced product with otherwise similar features except for the DTV tuner rather than a set with a DTV tuner. CEA–CERC argued that eliminating the 50 percent rule for 25–36" receivers and moving up the date for 100 percent compliance by such receivers would better align the policy behind the DTV tuner rule with market forces and consumer expectations.

3. In response to the CEA–CERC petition, we issued a *Notice of Proposed Rulemaking* (NPRM), 70 FR 13139, March 18, 2005, to consider adjusting the schedule by which new broadcast television receivers with screen sizes 25–36" are required to include the capability to receive digital television signals. In the NPRM, we requested comment on whether there is need to revise the implementation schedule of the DTV tuner requirement for receivers with screen sizes 25–36" to address the concerns raised by CEA–CERC 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. We specifically requested comment on the approach suggested by CEA–CERC whereby the requirement that 50 percent of receivers with screen sizes 25–36" 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 25–36" be required to include a DTV tuner effective March 1, 2006. We also invited alternative approaches for addressing the market situation described in the CEA–CERC petition and indicated that we intend to consider the full range of options that are consistent with our stated goals. However, we also advised commenting parties that we did not intend to extend the July 1, 2007, date by which all broadcast television receivers include DTV reception capability.

4. After review of the record in this proceeding, we conclude that while the partial production elements of our DTV tuner implementation plan may have caused some confusion in the market, that approach remains workable and will best serve to ensure that DTV tuner equipped receivers in the 25–36" mid-size range are available to consumers until the 100 percent DTV tuner requirement goes into effect for these receivers. We also find that it is in the interests of consumer electronics manufacturers and retailers and consistent with our goals as stated above to advance the 100 compliance date for mid-size receivers from July 1, 2006, to March 1, 2006.

5. With regard to the 50 percent provision, we find that postponing application of the DTV tuner requirement to the 25–36" receivers until March 1, the earliest date on which manufacturers state that they can meet the 100 percent requirement, would unacceptably delay the general availability of DTV reception capability in these products. While eliminating the 50 percent requirement for mid-size receivers until the 100 percent compliance requirement becomes effective might be more convenient for manufacturers and retailers, such an approach would also delay the wider dissemination of DTV tuners in products of this size range. It remains our intent that the implementation schedule aim for the most rapid introduction of DTV reception capability in this size range and indeed all new television receivers. Postponing the requirement for inclusion of DTV tuners in mid-size TV sets would be inconsistent with our efforts to advance the DTV transition as rapidly as possible. Our intent is to stem the flow of analog-only products as soon as possible for, every analog-only TV set sold is a blow to the DTV transition.

6. Initiating the DTV tuner requirement for mid-size receivers on March 1, 2006, the date that CEA–CERC

and manufacturers submit is the earliest feasible time by which manufacturers could meet the 100 percent compliance requirement, would undermine our goal of the most rapid introduction of DTV reception capability. The full eight months delay in which no mid-size TV sets would be required to include DTV tuners under that approach would miss the entire holiday and Super Bowl seasons this fall and next winter. Similarly, postponing the initiation of the 50 percent requirement until November 1, 2005 as suggested by CEA-CERC in their ex parte letter would miss the summer and most of the fall season and would also allow a large number of analog tuners to enter retailers' inventories for sale just before the holiday season. Moreover, consumers who purchase new receivers in the coming holiday and Super Bowl seasons would not likely return to the market again to purchase a new receiver for several years and so would be without a DTV tuner equipped device until they purchased a new set or until they obtained a separate set-top DTV tuner unit.

7. We recognize that there are DTV tuner-equipped mid-size TV receivers on the market now and that if we were to eliminate the 50 percent requirement in favor of a delayed 100 percent requirement there would still be DTV tuner equipped sets for consumers to acquire. Nonetheless, we expect that the quantity of DTV tuner equipped sets sold under that approach would be significantly lower than that under the 50 percent approach, given manufacturers' and retailers' description of the market. We also believe that it would further consumer awareness if manufacturers and retailers would provide point-of-sale and other marketing information to consumers and/or clearly label new television sets to indicate whether they can receive off-the-air DTV signals or only off-the-air analog signals. We believe that such efforts would result in more informed consumer choices about whether to buy DTV tuner equipped sets. We therefore encourage manufacturers and retailers to clearly label and identify the tuning capabilities of new TV sets and/or employ other means to disseminate to consumers information regarding whether or not specific models are able to receive off-the-air digital television signals.

8. With respect to the 100 percent compliance date, we conclude that it will ameliorate the concern of the consumer electronics manufacturers and retailers and further our goal of promoting DTV reception availability to advance the date on which 100 percent

of 25–36" receivers will be required to include a DTV tuner to March 1, 2006. Manufacturers have indicated that they will be able to equip 100 percent of new mid-size TV sets with DTV tuners by this date and both manufacturers and retailers support changing the 100 percent compliance date as a step to minimize the difficulties posed by the 50 percent requirement. We do not believe it would be feasible or practicable to advance the 100 percent requirement to a date earlier than that suggested by CEA-CERC. We recognize manufacturers' arguments that the lead time associated with development of new products, and particularly the time needed to establish specifications, change manufacturing lines, and order parts, would not allow the industry generally to meet a 100 percent compliance requirement before March 1, 2006. It makes little sense to require products to be on the market before the general population of manufacturers can deliver them. As many commenting parties observe, if manufacturers were not able to meet our deadline, they might cease production of mid-range sets or switch to monitor products that do not include TV tuners. Such a result would be disruptive to our goal of ensuring that consumers are able to receive DTV signals and could serve to delay the DTV transition. Accordingly, we are maintaining the provision of the current rules requiring that 50 percent of 25–36" television receivers include DTV tuners effective July 1, 2005, and advancing the date on which 100 percent of such receivers must include DTV tuners to March 1, 2006.

#### Final Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Notice of Proposed Rulemaking* (NPRM) in ET Docket No. 05–24. The Commission sought written public comment on the proposals on the NPRM concerning modification of the plan for applying the DTV tuner requirement to TV receivers with screen sizes 25–36", including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>2</sup>

#### A. Need for and Objectives of the Rules

10. As described in the NPRM, the changes to the rules 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.<sup>3</sup> That effort resulted in several Commission decisions, including those adopting a digital television (DTV) standard,<sup>4</sup> DTV service rules,<sup>5</sup> and a Table of DTV Allotments.<sup>6</sup> The Table of DTV Allotments provides each existing television broadcaster with a second channel on which to operate a DTV station for a transition period in which stations will operate both analog and digital TV service, after which analog service will cease and one of each station's two channels will revert to the government for use in other services. The transition deadline established by Congress is December 31, 2006.

11. Consistent with its efforts to promote the expeditious completion of the DTV transition, the Commission adopted a requirement that all new television 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 other TV receiving 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 25–36" 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 argued that the 50 percent requirement has proven to be disruptive to the market in the case of larger screen receivers. We are issuing this Report and Order to modify the portion of the DTV tuner requirement

<sup>3</sup> See *Notice of Inquiry* in MM Docket No. 87–268, 2 FCC Rcd 5125 (1987), 52 FR 34259, September 10, 1987; see also *Tentative Decision and Further Notice of Proposed Rulemaking* in MM Docket No. 87–268, 3 FCC Rcd 6520 (1988), 53 FR 38747, October 3, 1988.

<sup>4</sup> See *Fourth Report and Order* in MM Docket No. 87–268, 11 FCC Rcd 17771 (1996), 62 FR 14006, March 25, 1997.

<sup>5</sup> See *Fifth Report and Order* in MM Docket No. 87–268, 12 FCC Rcd 12809 (1997), 63 FR 13546, May 20, 1998.

<sup>6</sup> See *Sixth Report and Order* in MM Docket No. 87–268, 12 FCC Rcd 14588 (1997), 62 FR 2668, July 11, 1997.

<sup>1</sup> 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), Public Law 104–121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See 5 U.S.C. 604.

phase-in plan that applies to receivers with screen sizes 24" to 36". Specifically, we are amending the rules to advance the date on which all 24–36" receivers must include a DTV tuner to March 1, 2006, from the current date of July 1, 2006. Maintaining the 50 percent requirement for the period from July 1, 2005, to February 28, 2005, and advancing the 100 percent compliance date for mid-size receivers to March 1, 2006, will ameliorate the concerns of the consumer electronics manufacturers and retailers with respect to the 50 percent approach and further our goal of promoting DTV reception availability.

*B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

12. No comments were filed in response to the IRFA.

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

13. 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.<sup>7</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental entity."<sup>8</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>9</sup> 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).<sup>10</sup>

*Electronics Equipment Manufacturers.* Rules adopted in this proceeding will 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 equipment<sup>11</sup> as well as radio and television broadcasting and wireless communications equipment.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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 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.<sup>15</sup> Census Bureau data indicates that there are 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.<sup>16</sup> The

<sup>13</sup> 13 CFR 121.201 (NAICS Code 334310).

<sup>14</sup> 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.

<sup>15</sup> 13 CFR 121.201 (NAICS Code 513220).

<sup>16</sup> 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

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.<sup>17</sup> 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.<sup>18</sup> 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*

14. The rule changes adopted in the Report and Order impose no additional recordkeeping or recordkeeping requirements on manufacturers of television receiving equipment, large or small. While the modifications adopted therein may have a small impact on consumer electronics manufacturers, any such impact would be similar for both large and small entities.

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

15. 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

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.

<sup>17</sup> 13 CFR 121.201 (NAICS Code 334111).

<sup>18</sup> 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).

<sup>7</sup> 5 U.S.C. 603(b)(3).

<sup>8</sup> 5 U.S.C. 601(6).

<sup>9</sup> 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 term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

<sup>10</sup> 15 U.S.C. 632.

<sup>11</sup> 13 CFR 121.201 (NAICS Code 334310).

<sup>12</sup> 13 CFR 121.201 (NAICS Code 334220).

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.<sup>19</sup>

16. The modification of the provisions for implementing the DTV tuner requirement in TV receivers with screen sizes in the 25–36" mid-size range set forth herein are intended to ameliorate certain market difficulties described by consumer electronics manufacturers and consumer electronics products retailers and to expedite the availability of DTV tuners in new mid-size television receivers that are offered to consumers. The revisions adopted preserve the requirement for DTV tuners in 50 percent of the new mid-size range of receivers for the period July 1, 2005, to February 28, 2005, in order to ensure that such receivers are available as soon as possible and particularly during the 2005 holiday season and 2006 Super Bowl season. The consumer electronics industry has indicated that it prefers the 100 percent requirement to become effective on March 1, 2006, rather than the original July 1, 2006, date. Advancing the date for 100 percent compliance by mid-size receivers will ameliorate the challenges of the 50 percent provision for manufacturers and retailers and will also serve to promote the availability of DTV tuner equipped TV sets to consumers.

17. Other approaches considered included various suggestions by broadcasters and others to advance the deadline for DTV tuners in 25–36" sets to dates between November 1, 2005, and January 1, 2005. We rejected the options to advance the 100 percent requirement to a date earlier than March 1, 2006, on the basis that the 5 to 6 month lead-times available to manufacturers under those scenarios would be too short for manufacturers to meet with new products, especially given the lead-times associated with obtaining parts and components from suppliers. Extending the deadline beyond March 1, 2006, would be inconsistent with the need to expedite the DTV transition.

Report to Congress

18. The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>20</sup> In addition, the Commission will send a copy of the Report and Order, including

the FRFA, to the Chief Counsel for Advocacy of the SBA.<sup>21</sup>

#### Ordering Clauses

19. Pursuant to the authority contained in sections 2(a), 4(i) & (j), 7, 151 and 303 of the Communications Act of 1934 as amended, 47 U.S.C. 152(a), 154(i) & (j), 151, 157, and 303, this Report and Order *is adopted* and the Commission's rules *are hereby amended* as set forth in Rule Changes, and shall become effective August 5, 2005.

20. The Petition for Rulemaking submitted by the Consumer Electronics Association and the Consumer Electronics Retailers Association in this matter on November 5, 2004, *is denied* in part and *is granted* in part as indicated in the Report and Order.

21. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration,<sup>22</sup> to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 15

Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,  
Secretary.

#### Rule Changes

■ For the reasons set forth in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

#### PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 304, 307, and 554A.

■ 2. Section 15.117 is amended by revising paragraph (i)(1) to read as follows:

#### § 15.117 TV broadcast receivers.

\* \* \* \* \*

(i) \* \* \*

(1) Responsible parties, as defined in § 2.909 of this chapter, are required to equip new TV broadcast receivers that are shipped in interstate commerce or imported from any foreign country into the United States and for which they are responsible to comply with the provisions of this section in accordance with the following schedule:

(i) Receivers with screen sizes 36" and above—50% of all 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.

(ii) Receivers with screen sizes 25" to less than 36"—50% of all of a responsible party's units must include DTV tuners effective July 1, 2005; 100% of such units must include DTV tuners effective March 1, 2006.

(iii) Receivers with screen sizes 13" to less than 25"—100% of all such units must include DTV tuners effective July 1, 2007.

(iv) Other devices (videocassette recorders (VCRs), digital video disk and digital versatile disk (DVD) players/recorders, etc.) that receive television signals—100% of all such units must include DTV tuners effective July 1, 2007.

\* \* \* \* \*

[FR Doc. 05–13027 Filed 7–5–05; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244**

[Docket No. FRA–2004–17529; Notice No. 4]

RIN 2130–AB66

### Inflation Adjustment of the Ordinary Maximum Civil Monetary Penalty for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule; withdrawal.

**SUMMARY:** FRA is withdrawing its final rule that adjusted from \$11,000 to \$15,000 the ordinary maximum civil penalty that applies when a civil penalty for a violation of railroad safety statutes and regulations is assessed under its authority, due to an error in the application of the rounding rules found in the applicable statute. The ordinary maximum civil penalty will remain at \$11,000.

**DATES:** The final rule published on June 8, 2005, at 70 FR 33380 is withdrawn in its entirety as of July 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Carolina Mirabal, Trial Attorney, Office

<sup>19</sup> 5 U.S.C. 603.

<sup>20</sup> *See* 5 U.S.C. 801(a)(1)(A).

<sup>21</sup> *See* 5 U.S.C. 604(b).

<sup>22</sup> *See* 5 U.S.C. 603(a).