(B) A listing in the office directory, if available, in the building in which the CEC is located, and

(C) Conference rooms and other business services on demand.

c. A customer shall be deemed to occupy space regularly each month for purposes of b(2) if, under the specific terms of the agreement, the person is charged at least $125 per month for the duration of the agreement for occupancy and related support services.

d. Notwithstanding any other standards, a customer whose agreement provides for mail services only or mail and telephone services only will not be considered a CEC customer (without regard for occupancy or other services that a CEC may provide and bill for on demand).

e. The Postal Service may request from the CEC copies of agreements or any other documents or information needed to determine compliance with these standards. Failure to provide requested documents or information may be a basis for suspending delivery service to the CEC under the procedures set forth in section D042.2.6.h through i for suspending delivery to a CMRA.

* * * * *

[An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.]

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–2138 Filed 2–1–00; 8:45 am]

BILLING CODE 7710–12–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 130

[FRL–6531–7]

Revision to the Water Quality Planning and Management Regulation Listing Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the Water Quality Planning and Management regulation to remove the requirement that States, Territories and authorized tribes submit to EPA for review by April 1, 2000, lists of impaired and threatened waterbodies. EPA's current regulations interpret the provision in section 303(d) of the Clean Water Act for submission of lists to EPA ''from time to time'' to require States, Territories and authorized tribes to submit lists on April 1 of every even-numbered year. For the reasons discussed below, EPA is proposing to remove the requirement that such lists be submitted in 2000. In this document, EPA is not proposing to change the existing regulatory requirement if a court order, consent decree, or settlement agreement dated prior to January 1, 2000, expressly requires EPA to take action related to a State's year 2000 list. Also, EPA is not in this notice proposing to change the existing regulatory requirement that subsequent lists be submitted on April 1, 2002, and on April 1 of subsequent even numbered years.

DATES: Comments on this proposal must be submitted on or before March 3, 2000. Comments provided electronically will be considered timely if they are submitted by 11:59 P.M. (Eastern time) March 3, 2000.

ADDRESSES: Send written comments on the proposed rule to the Comment Clerk for the Year 2000 List Rule, Water Docket (W–99–25), Environmental Protection Agency, 401 M Street, SW; Washington, DC 20460. EPA requests that commenters submit any references cited in their comments. EPA also requests that commenters submit an original and three copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epa.gov. Electronic comments must be submitted as an ASCII or WordPerfect file avoiding the use of special characters and any form on encryption. Electronic comments must be identified by the docket number (W–99–25), and may be filed online at many Federal depository Libraries. No confidential business information (CBI) should be sent via e-mail.

A copy of the comments received will be available for review at EPA's Water Docket; Room EB–57 (East Tower Basement), 401 M Street, SW, Washington, DC 20460. For access to docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment. An electronic version of this proposal will be available via the Internet at: *http://www.epa.gov/OWOW/tmdl/index.html.*

FOR FURTHER INFORMATION CONTACT: Annette Widener, U.S. EPA, Office of Wetlands, Oceans and Watersheds (4503F), 401 M. St., SW., Washington, D.C. 20640, (202) 401–4078.

SUPPLEMENTARY INFORMATION:

Authority: Clean Water Act Section 303.

I. Entities Potentially Regulated by the Proposed Rule

Category	NAIAS codes	SIC codes	Examples of potentially regulated entities
State, Local, Tribal Government	N/A	N/A	States, Territories, and authorized tribes

This table is not intended to be exhaustive, but rather provides a guider for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether you are regulated by this action, you should carefully examine the applicability criteria in part 130 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. Summary of Proposed Rule

A. Existing Requirement

Section 303(d)(1) of the CWA requires States, Territories and authorized tribes to submit to EPA ''from time to time'' a list of waterbodies for which existing pollution controls are not stringent enough to attain and maintain State, Territorial and authorized Tribal water quality standards. The statute requires

EPA to review and approve or disapprove the lists within 30 days of the time they are submitted. If EPA disapproves a list, EPA must establish the list for the State, Territory or authorized Tribe.

In 1992, EPA revised the regulations implementing section 303(d)(1) to require States, Territories, and authorized tribes to submit lists of impaired and threatened waterbodies to EPA every two years, with the 1992 lists due to EPA no later than October 22, 1992, and subsequent lists due on April 1 of even-numbered years. The most recent listing deadline was April 1, 1998, and all States, Territories, and authorized tribes have now submitted 1998 section 303(d) lists to EPA. As of January 2000, EPA had approved the vast majority of the lists.

B. Proposed Rule

Today, EPA is proposing to revise the existing regulatory requirement that section 303(d) lists be submitted on April 1, 2000. Under the existing regulations, States, Territories and authorized tribes are required to submit the next section 303(d) list to EPA on April 1, 2000, and thereafter on April 1 of every even-numbered year. EPA is today proposing to remove only the April 1, 2000, listing requirement for the following reasons.

First, comprehensive revisions to the listing regulations were proposed in August 1999 in the Revisions to the Water Quality Planning and Management Regulation rule (also known as the TMDL Rule). See 64 FR 46012 (Aug. 23, 1999). The changes in the listing requirements proposed in August would, if adopted, result in significant changes to the list development and submission process. The proposed changes are intended to provide clearer direction to States, Territories and authorized tribes in how to develop their lists, result in a comprehensive public accounting of impaired and threatened waterbodies, promote consistency among States, Territories and authorized tribes in the listing process, and ensure public participation. EPA believes that these proposed changes will result in better section 303(d) lists than are being prepared under current rules, and believes that States should devote resources to prepare for the anticipated new listing requirements rather than develop year 2000 lists under the current requirements.

Second, EPA believes that establishing TMDLs is the crucial step in identifying actions needed to assure that waterbodies identified as impaired or threatened on the section 303(d) list attain and maintain water quality standards. Given the anticipated changes in listing requirements, EPA believes that until those new requirements are promulgated, States, Territories and authorized tribes should focus their resources on establishing TMDLs for waters already listed under section 303(d) and submitting them to EPA for review and approval, rather than developing a new list in the year 2000. It is important to note that, since EPA is proposing to remove the requirement for only the April 1, 2000, deadline, States, Territories and authorized tribes will be required to submit section 303(d) lists on April 1, 2002, under the current regulatory requirements. In addition, the date established for submission of the first 303(d) list in the promulgated TMDL Rule may be in advance of the existing April 2002 submittal requirement. In this case, less than four years would have elapsed between 1998 and when the first lists required by the revised regulations are submitted to EPA.

Third, since all States, Territories and authorized tribes submitted 1998 section 303(d) lists and EPA has approved the vast majority of these lists, there currently exists an extensive, complete, and public accounting of impaired and threatened waterbodies for the entire Nation. If, as EPA is proposing, there is no requirement for an April 1, 2000 list, EPA expects States, Territories, and authorized tribes to continue monitoring the quality of their waterbodies and to establish and implement TMDLs for the waterbodies on their 1998 section 303(d) lists. This will ensure continued progress towards attainment and maintenance of water quality standards Nationwide.

The proposed rule includes a limited exception which would require a State to submit a list in the year 2000 only if a court order, consent decree, or settlement agreement dated prior to January 1, 2000, expressly requires EPA to take action related to that State's year 2000 list. In recent years, litigation under section 303(d) has resulted in court orders, consent decrees, and settlement agreements in a number of States related to EPA obligations in implementing section 303(d). In order to avoid unsettling a commitment embodied in a court order, consent decree, or settlement agreement, today's proposed rule would not relieve such a State of the obligation to submit a year 2000 list if a court order, consent decree, or settlement agreement dated prior to January 1, 2000, expressly requires EPA to take action related to that State's year 2000 list. The Act grants EPA the discretionary authority to interpret the requirement that States submit lists ''from time to time.'' In the exercise of its discretionary authority, EPA believes it is appropriate to continue to require a year 2000 list in those States in which the absence of a year 2000 list would unsettle an existing court order, consent decree or settlement agreement. EPA has reviewed the consent decrees, court orders, and settlement agreements in cases involving TMDL programs and believes the only order, consent decrees, or settlement agreement with a requirement for EPA to take an action expressly related to a year 2000 list is a consent decree for Georgia. EPA solicits public comment on whether there are any other such court orders, consent decrees, and settlement agreements. If there are, EPA will notify those States and will identify those States in the notice of final rulemaking as States in which a year 2000 list would be required. EPA solicits comment on whether to include this exception in the final rule.

In its August 1999 TMDL Rule proposal, EPA proposed to amend the existing regulations to change the April 1, 2000, deadline to October 1, 2000, for submission by the States, Territories, and authorized tribes of their lists of impaired waters. EPA made this proposal in recognition of the fact that it was unlikely that the comprehensive changes it announced in August 1999 would be finalized far enough in advance of April 2000 to inform the States' April 2000 lists (64 FR 46030). EPA proposed that States submit lists in October 2000 either using the new TMDL Rule (if finally promulgated ''well in advance of October 1'') or the current regulations (in the event the new regulations were delayed). Upon further consideration, EPA believes the best course is to eliminate the year 2000 list entirely. Today's proposal represents EPA's current thinking; however, the public may still submit comments on the August 23, 1999, TMDL Rule proposal to move the date of the year 2000 list from April 1 to October 1, 2000.

Even though EPA is proposing to eliminate the requirement that States, Territories, and authorized tribes submit lists of impaired waters in April 2000, EPA understands that some States may wish to submit such lists anyway. In the event that States submit such lists to EPA, EPA intends to review and either approve or disapprove them even if this proposal to eliminate the April 2000 list becomes final.

EPA intends to carefully review any proposed removal of a waterbody from a section 303(d) list to ensure there is

information specific to the waterbody to support the removal. Some examples of such information are when a State develops and EPA approves a TMDL for the waterbody/pollutant on the prior list, new information shows that the waterbody is achieving water quality standards for the pollutant at issue, or re-evaluation of the information supporting the initial listing shows that this information is incorrect. In particular, where a waterbody was previously listed based on certain data or information, and the State removes the waterbody without developing or obtaining any new information, EPA will carefully evaluate the State's re-evaluation of the available information, and would not approve such removals unless the State's submission describes in detail why it is appropriate to remove each affected waterbody. EPA has the authority to disapprove the list if EPA identifies existing and readily available information that was existing and readily available at the time the State submitted list showing that a waterbody does not achieve water quality standards or is water quality limited and is required by the regulations to be listed. In August, 1999, EPA proposed to establish specific criteria for removing a water from a Section 303(d) list, and is considering whether to promulgate that specific provision as part of final action on today's rule. *See* 64 FR 46049, 40 CFR 130.29. EPA also intends to exercise its authority to add appropriate waterbodies if a State submits a year 2000 list before EPA promulgates the comprehensive changes to the TMDL program that were proposed on August 23, 1999.

In developing today's proposal, EPA also considered retaining the existing regulatory requirement that States, Territories, and authorized tribes submit lists to EPA on April 1 of every even numbered year, including April 1, 2000. EPA rejected this option because, in light of EPA's pending effort to revise significantly the rules governing submission of lists and for the reasons discussed above, it does not promote effective and efficient use of government resources in identifying impaired waters as a first step toward restoring and maintaining the quality of the Nation's waters.

C. Comments Sought

EPA seeks comments on whether to eliminate the April 1, 2000, listing deadline in light of the comprehensive improvements and clarifications being proposed to the existing listing requirements. EPA also requests comments on whether to move the April 2000 list submission date to another date prior to April 2002. EPA also requests comment whether to include in the final rule the limited exception which would require a State to submit a list in the year 2000 only if a court order, consent decree, or settlement agreement dated prior to January 1, 2000, expressly requires EPA to take action related to that State's year 2000 list.

III. Regulatory Assessment Requirements

A. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA requires analysis of the impacts of a rule on the small entities *subject to the rule's requirements.* See *United States Distribution Companies* v. *FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996); *Mid-Tex Electric Co-op., Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985); *Motor & Equipment Manufacturers Ass'n* v. *Nichols*, 142 F.3d 449 (D.C. Cir. 1998). Today's rule establishes no requirements applicable to small entities, and so is not susceptible to regulatory flexibility analysis as prescribed by the RFA. ''[N]o [regulatory flexibility] analysis is necessary when an agency determines that the rule will not have a significant economic impact on a substantial number of small entities *that are subject to the requirements of the rule.'' United Distribution* at 1170, quoting *Mid-Tex Elec. Co-op., Inc.* v. *FERC*, 773 F.2d 327, 342 (D.C. Cir. 1985) (emphasis added by *United Distribution* court). After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

This proposed rule will not impose any requirements on small entities. It merely eliminates the current regulatory requirement which directs States, Territories and authorized tribes (and EPA, if it disapproves the State's, Territory's or authorized tribe's efforts) to establish lists of impaired waterbodies in the year 2000. The proposed rule applies only to those three categories of entities and does not impose requirements upon any small entities. Moreover, today's proposal would eliminate a requirement to submit a list of impaired waters in the year 2000, thereby saving States, Territories, and authorized tribes the economic impact of developing such lists.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal Mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or tribal governments or the private sector. The proposal is deregulatory in nature in that it eliminates the current regulatory requirement that States, Territories, and authorized tribes submit lists of impaired waters in 2000. In addition, since today's proposal does not impose any requirements on the private sector, the private sector will incur no costs. Thus, today's proposal is not subject to the requirements of section 202 and 205 of UMRA.

For the same reasons as listed above, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act

This proposed rule does not contain any information collection, reporting, or record keeping requirements. Thus, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule would actually streamline and reduce existing OMB-approved requirements by 25,424 hours in the year 2000.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless EPA consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. As discussed above, the proposed rule is deregulatory in nature and eliminates a current requirement that States, Territories, and authorized tribes submit lists of impaired waters in 2000. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposal does not significantly or uniquely affect the communities of Indian tribal governments nor does it impose substantial direct compliance costs on them. The proposal is deregulatory in nature in that it eliminates the current regulatory requirement that States, Territories, and authorized tribes submit lists of impaired waters in 2000. Currently, there are no tribes authorized to establish TMDLs or lists of impaired waters. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's proposal.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it is not ''economically significant''. As noted earlier, this rule is deregulatory in nature.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides

not to use available and applicable voluntary consensus standards.

This proposed rule does not involve any technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comment on this aspect of the proposal rulemaking and specifically invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 130

Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: January 27, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 130—[Amended]

1. The authority citation for part 130 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 130.7 is amended by adding a new sentence after the third sentence in paragraph (d)(1) to read as follows:

§ 130.7 Total maximum daily loads (TMDL) and individual water quality-based effluent limitations.

* * * * *

(d) * * * (1) * * * For the year 2000 submission, a State must only submit a list required under paragraph (b) of this section if a court order, consent decree, or settlement agreement dated prior to January 1, 2000, expressly requires EPA to take action related to that State's year 2000 list. * * *

* * * * *

[FR Doc. 00–2282 Filed 2–1–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[ET Docket No. 00–11; FCC 00–17]

Establishment of an Improved Model for Predicting the Broadcast Television Field Strength Received at Individual Locations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comment on a proposed prediction model for determining presumptively the ability of individual locations to receive over-the-air television signals broadcast by local television stations. The Commission believes this model will be a useful means for establishing the eligibility of individual households to receive the signals of television broadcast network stations through satellite carriers. The Commission is complying with new statutory requirements set forth in the Satellite Home Viewer Improvement Act of 1999.

DATES: Comments must be received on or before February 22, 2000, and reply comments on or before March 7, 2000.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Eckert, Office of Engineering and Technology, (202–418–2433).

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making in ET Docket No. 00–11, FCC 00–17, adopted January 13, 2000, and released January 20, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of the Notice of Proposed Rule Making

1. In the Notice of Proposed Rule Making (NPRM), the Commission proposes rules prescribing a point-to-point predictive model for determining the ability of individual locations to receive an over-the-air television broadcast signal of a specific intensity through the use of a conventional, stationary, outdoor rooftop receiving antenna. Our goal in developing this model is to provide a means for reliably and presumptively determining whether the over-the-air signals of network affiliated television stations can be received at individual locations. Such determinations are used in establishing the eligibility of individual households to receive the signals of television broadcast network stations by satellite carriers. In issuing this proposal, we are complying with new statutory requirements set forth in the Satellite Home Viewer Improvement Act of 1999 (SHVIA). The signal intensity for determining eligibility is the Grade B standard set forth in § 73.683(a) of the Commission's rules.

2. The SHVIA revises and extends statutory provisions established by Congress in the 1988 Satellite Home Viewer Act (SHVA). With regard to prediction of signal availability, the SHVIA adds a new section 339(c)(3) to the Communications Act of 1934, as amended, which requires that ''[W]ithin 180 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall take all actions necessary, including any reconsideration, to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code.'' Section 339(c)(3) further provides that ''[I]n prescribing such a model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98–201, and ensure that such model takes into account terrain, building structures, and other land cover variations. The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.'' The SHVIA also requires that the courts rely on the Individual Location Longley Rice model established by the Commission for making presumptive determinations of whether a household is capable of receiving broadcast television signals of Grade B intensity.

3. In its Report and Order in CS Docket No. 98–201, 64 FR 7113 (February 12, 1999), (SHVA Report and Order), the Commission endorsed the use of a specific model for predicting signal strength at individual locations. This model, which the Commission termed ''Individual Location Longley-Rice'' or ''ILLR,'' is a version of Longley-Rice 1.2.2. The Commission recommended that the ILLR model be used for determining a presumption of service or lack of service by local over-the-air television signals at individual locations for purposes of establishing a household's eligibility to receive network television programming by satellite carriers under the SHVA.

4. The Commission found that vegetation and buildings affect signal intensity at individual locations. However, it also found that at the time of the SHVA Report and Order, there was no standard means of including