

Federal Communications Commission

§ 73.624

change the channel or location of authorized DTV stations that would use channels 14-20 where the distance between the DTV reference point as defined in section 73.622(d), would be located less than 250 km from the city center of a co-channel land mobile operation or 176 km from the city center of an adjacent channel land mobile operation. Petitions to amend the DTV

Table, applications for new DTV stations, or requests to modify the DTV Table that do not meet the minimum DTV-to-land mobile spacing standards will, however, be considered where all affected land mobile licensees consent to the requested action. Land mobile operations are authorized on these channels in the following markets:

City	Channels	Latitude	Longitude
Boston, MA	14, 16	42°21'24"	71°03'25"
Chicago, IL	14, 15	41°52'28"	87°38'22"
Dallas, TX	16	32°47'09"	96°47'37"
Houston, TX	17	29°45'26"	95°21'37"
Los Angeles, CA	14, 16, 20	34°03'15"	118°14'28"
Miami, FL	14	25°46'37"	80°11'32"
New York, NY	14, 15	40°45'06"	73°59'39"
Philadelphia, PA	19, 20	39°56'58"	75°09'21"
Pittsburgh, PA	14, 18	40°26'19"	80°00'00"
San Francisco, CA	16, 17	37°46'39"	122°24'40"
Washington, DC	17, 18	38°53'51"	77°00'33"

(f) Parties requesting new allotments on channel 6 be added to the DTV Table must submit an engineering study demonstrating that no interference would be caused to existing FM radio stations on FM channels 200-220.

(g) *Negotiated agreements on interference.* Notwithstanding the minimum technical criteria for DTV allotments specified above, DTV stations operating on allotments that are included in the initial DTV Table may: operate with increased ERP and/or antenna HAAT that would result in additional interference to another DTV station or an analog TV station if that station agrees, in writing, to accept the additional interference; and/or implement an exchange of channel allotments between two or more licensees or permittees of TV stations in the same community, the same market, or in adjacent markets provided, however, that the other requirements of this section and of section 73.622 are met with respect to each such application. Such agreements must be submitted with the application for authority to construct or modify the affected DTV station or stations. The larger service area resulting from a negotiated change in ERP and/or antenna HAAT will be protected in accordance with the provisions of paragraph (c) of this section. Negotiated agreements under this paragraph can include the ex-

change of money or other considerations from one station to another, including payments to and from non-commercial television stations assigned reserved channels. Applications submitted pursuant to the provisions of this paragraph will be granted only if the Commission finds that such action is consistent with the public interest.

[62 FR 26719, May 14, 1997, as amended at 63 FR 13560, Mar. 20, 1998; 64 FR 4327, Jan. 28, 1999; 65 FR 30002, May 10, 2000; 65 FR 58467, Sept. 29, 2000]

§ 73.624 Digital television broadcast stations.

(a) Digital television ("DTV") broadcast stations are assigned channels 6 MHz wide. Initial eligibility for licenses for DTV broadcast stations is limited to persons that, as of April 3, 1997, are licensed to operate a full power television broadcast station or hold a permit to construct such a station (or both).

(b) At any time that a DTV broadcast station permittee or licensee transmits a video program signal on its analog television channel, it must also transmit at least one over-the-air video program signal at no direct charge to viewers on the DTV channel that is licensed to the analog channel, *provided* that, before the date on which DTV station is required to be constructed

under paragraph (d) of this section, the DTV broadcast station permittee or licensee is not subject to any minimum schedule for operation on the DTV channel. The DTV service that is provided pursuant to this paragraph must be at least comparable in resolution to the analog television station programming transmitted to viewers on the analog channel, but subject to paragraph (f) of this section, DTV broadcast stations are not required to simulcast the analog programming.

(c) Provided that DTV broadcast stations comply with paragraph (b) of this section, DTV broadcast stations are permitted to offer services of any nature, consistent with the public interest, convenience, and necessity, on an ancillary or supplementary basis. The kinds of services that may be provided include, but are not limited to computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations under paragraph (b) of this section. Such services may be provided on a broadcast, point-to-point or point-to-multipoint basis, provided, however, that any video broadcast signal provided at no direct charge to viewers shall not be considered ancillary or supplementary.

(1) DTV licensees that provide ancillary or supplementary services that are analogous to other services subject to regulation by the Commission must comply with the Commission regulations that apply to those services, provided, however, that no ancillary or supplementary service shall have any rights to carriage under §§ 614 or 615 of the Communications Act of 1934, as amended, or be deemed a multichannel video programming distributor for purposes of section 628 of the Communications Act of 1934, as amended.

(2) In all arrangements entered into with outside parties affecting service operation, the DTV licensee or permittee must retain control over all material transmitted in a broadcast mode via the station's facilities, with the right to reject any material in the sole judgement of the permittee or licensee. The license or permittee is also respon-

sible for all aspects of technical operation involving such telecommunications services.

(3) In any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, a licensee shall establish that all of its program services on the analog and the DTV spectrum are in the public interest. Any violation of the Commission's rules applicable to ancillary or supplementary services will reflect on the licensee's qualifications for renewal of its license.

(d) Digital television broadcast facilities that comply with the FCC DTV Standard (section 73.682(d)), shall be constructed in the following markets by the following dates:

(1)(i) May 1, 1999: all network-affiliated television stations in the top ten television markets;

(ii) November 1, 1999: all network-affiliated television stations not included in category (1)(i) and in the top 30 television markets;

(iii) May 1, 2002: all remaining commercial television stations;

(iv) May 1, 2003: all noncommercial television stations.

(2) For the purposes of paragraph (d)(1):

(i) The term, "network," is defined to include the ABC, CBS, NBC, and Fox television networks;

(ii) The term, "television market," is defined as the Designated Market Area or DMA as defined by Nielsen Media Research as of April 3, 1997; and

(iii) The terms, "network-affiliated" or "network-affiliate," are defined to include those television stations affiliated with at least one of the four networks designated in paragraph (d)(2)(i) as of April 3, 1997. In those DMAs in which a network has more than one network affiliate, paragraphs (d)(1) (i) and (ii) of this section shall apply to its network affiliate with the largest audience share for the 9 a.m. to midnight time period as measured by Nielsen Media Research in its Nielsen Station Index, Viewers in Profile, as of February, 1997.

(3) *Authority delegated.* (i) Authority is delegated to the Chief, Mass Media Bureau to grant an extension of time of up to six months beyond the relevant

construction deadline specified in paragraph (d)(1) of this section upon demonstration by the DTV licensee or permittee that failure to meet that construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control where the licensee has taken all reasonable steps to resolve the problem expeditiously.

(ii) Such circumstances shall include, but shall not be limited to: (a) inability to construct and place in operation a facility necessary for transmitting digital television, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints; or (b) the lack of equipment necessary to obtain a digital television signal.

(iii) The Bureau may grant no more than two extension requests upon delegated authority. Subsequent extension requests shall be referred to the Commission. The Bureau may not on delegated authority deny an extension request but must refer recommended denials to the Commission.

(iv) Applications for extension of time shall be filed at least 30 days prior to the relevant construction deadline, absent a showing of sufficient reasons for filing within less than 30 days of the relevant construction deadline.

(e) The application for construction permit must be filed on Form 301 (except for noncommercial stations, which must file on Form 340) on or before the date on which half of the construction period has elapsed. Thus, for example, for applicants in category (d)(1)(i), the application for construction period must be filed by May 1, 1998.

(f)(i) Commencing on April 1, 2003, DTV television licensees and permittees must simulcast 50 percent of the video programming of the analog channel on the DTV channel.

(ii) Commencing on April 1, 2004, DTV licensees and permittees must simulcast 75% of the video programming of the analog channel on the DTV channel.

(iii) Commencing on April 1, 2005, DTV licensees and permittees must simulcast 100% of the video programming of the analog channel on the DTV channel.

(iv) The simulcasting requirements imposed in paragraphs (f) (i)-(iii) of

this section will terminate when the analog channel terminates operation and a 6 MHz channel is returned by the DTV licensee or permittee to the Commission.

(g) Commercial DTV licensees must annually remit a fee of five percent of the gross revenues derived from all ancillary or supplementary services, as defined by paragraph (b) hereof, which are *feeable*, as defined in paragraphs (i) through (ii) hereof.

(1)(i) All ancillary or supplementary services for which payment of a subscription fee or charge is required in order to receive the service are feeable. The fee required by this provision shall be imposed on any and all revenues from such services, including revenues derived from subscription fees and from any commercial advertisements transmitted on the service.

(ii) Any ancillary or supplementary service for which no payment is required from consumers in order to receive the service is feeable if the DTV licensee directly or indirectly receives compensation from a third party in return for the transmission of material provided by that third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required). The fee required by this provision shall be imposed on any and all revenues from such services, other than revenues received from a third party in return for the transmission of commercial advertisements used to support broadcasting for which a subscription fee is not required.

(2) *Payment of fees.* (i) Each December 1, all commercial DTV licensees will electronically report whether they provided ancillary or supplementary services in the twelve-month period ending on the preceding September 30. Licensees will further report, for the applicable period: (A) a brief description of the services provided; (B) which services were feeable ancillary or supplementary services; (C) whether any ancillary or supplementary services provided were not subject to a fee; (D) gross revenues received from all feeable ancillary and supplementary services provided during the applicable period; and (E) the amount of bitstream used to provide ancillary or

supplementary services during the applicable period. Licensees will certify under penalty of perjury the accuracy of the information reported. Failure to file regardless of revenues from ancillary or supplementary services or provision of such services may result in appropriate sanctions.

(ii) If a commercial DTV licensee has provided feeable ancillary or supplementary services at any point during a twelve-month period ending on September 30, the licensee must additionally file the FCC's standard remittance form (Form 159) on the subsequent December 1. Licensees will certify the amount of gross revenues received from feeable ancillary or supplementary services for the applicable twelve-month period and will remit the payment of the required fee.

(iii) The Commission reserves the right to audit each licensee's records which support the calculation of the amount specified on line 23A of Form 159. Each licensee, therefore, is required to retain such records for three years from the date of remittance of fees.

[62 FR 26989, May 16, 1997, as amended at 63 FR 15784, Apr. 1, 1998; 63 FR 69216, Dec. 16, 1998; 64 FR 4327, Jan. 28, 1999]

§ 73.625 DTV coverage of principal community and antenna system.

(a) Transmitter location.

(1) The DTV transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum F (50,90) field strength in dB above one uV/m will be provided over the entire principal community to be served:

Channels 2–6	L28 dBu
Channels 7–13	36 dBu
Channels 14–69	41 dBu

(2) The location of the antenna must be so chosen that there is not a major obstruction in the path over the principal community to be served.

(3) For the purposes of this section, coverage is to be determined in accordance with paragraph (b) of this section. Under actual conditions, the true coverage may vary from these estimates

because the terrain over any specific path is expected to be different from the average terrain on which the field strength charts were based. Further, the actual extent of service will usually be less than indicated by these estimates due to interference from other stations. Because of these factors, the predicted field strength contours give no assurance of service to any specific percentage of receiver locations within the distances indicated.

(b) *Determining coverage.* (1) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9, 10 and 10b of §73.699 of this part) and the F (50,10) field strength charts (Figures 9a, 10a and 10c of §73.699 of this part) shall be used. To use the charts to predict the distance to a given F (50,90) contour, the following procedure is used: Convert the effective radiated power in kilowatts for the appropriate azimuth into decibel value referenced to 1 kW (dBk). Subtract the power value in dBk from the contour value in dBu. Note that for power less than 1 kW, the difference value will be greater than the contour value because the power in dBk is negative. Locate the difference value obtained on the vertical scale at the left edge of the appropriate F (50,50) chart for the DTV station's channel. Follow the horizontal line for that value into the chart to the point of intersection with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. If the point of intersection does not fall exactly on a distance curve, interpolate between the distance curves below and above the intersection point. The distance values for the curves are located along the right edge of the chart. Using the appropriate F (50,10) chart for the DTV station's channel, locate the point where the distance coincides with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. Follow a horizontal line from that point to the left edge of the chart to determine the F (50,10) difference value. Add the power value in dBk to this difference