

State/location	Community No.	Effective date of eligibility	Current effective map date
Seneca, village of, Lasalle and Grundy Counties.	170407do	Do.
Sun River Terrace, village of, Kankakee County	171015do	Do.

¹ The City of Travelers Rest, South Carolina has adopted the Greenville County (450089) Flood Insurance Rate Map dated January 16, 1992 (panel 135).

² The City of Progreso, Texas has adopted the Hidalgo County (480334) Flood Insurance Rate Map dated November 16, 1982 (panel 0525).

³ The City of Edgewood has adopted the Pierce County (530138) Flood Insurance Rate Map dated August 4, 1988.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; SFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: May 12, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-13181 Filed 5-19-97; 8:45 am]

BILLING CODE 6718-05-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[GEN Docket No. 90-314; ET Docket No. 92-100; PP Docket No. 93-253; FCC 97-140]

Narrowband Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Report and Order*, the Commission clarifies that its power and antenna height rules apply to regional as well as other narrowband Personal Communications Services (narrowband PCS) licenses, declines to provide special relief for those affected by the Canadian Interim Sharing Arrangement, and establishes competitive bidding rules for awarding the remaining authorizations for narrowband PCS. These changes clarify current Commission rules and establish procedures for awarding and licensing narrowband PCS in the future.

EFFECTIVE DATE: July 21, 1997.

FOR FURTHER INFORMATION CONTACT: Alice Elder or Mark Bollinger at (202) 418-0660 (Wireless

Telecommunications Bureau/Auctions Division) or David Furth or Rhonda Lien at (202) 418-0620 (Wireless Telecommunications Bureau/Commercial Wireless Division).

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order*, GEN Docket No. 90-314, ET Docket No. 92-100 and PP Docket 93-253, adopted April 17, 1997 and released April 23, 1997. The complete text of the *Report*

and *Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Report and Order

Background

1. In the *First Report and Order*, 58 FR 42681 (August 11, 1993), the Commission provided for operation of new narrowband Personal Communications Services (PCS) in the 900 MHz band. The Commission broadly defined PCS as mobile and fixed communications offerings that serve individuals and businesses, and can be integrated with a variety of competing networks. The Commission declined to adopt a restrictive definition of narrowband PCS in order to promote other potential narrowband services. The Commission also adopted a spectrum allocation and channelization plan, licensing rules, and technical standards for narrowband PCS. The Commission determined that PCS is subject to competitive bidding in the case of eligible parties with competing applications.

2. In the *Competitive Bidding Second Report and Order*, 59 FR 22980 (May 4, 1994), the Commission adopted general competitive bidding rules for auctionable services. In the *Competitive Bidding Third Report and Order*, 59 FR 26741 (May 24, 1994) the Commission established competitive bidding rules specifically for narrowband PCS. On reconsideration of that *Order*, the Commission revised certain auction processing rules, expanded special provisions for designated entities in future narrowband auctions, and sought comment on additional designated entity provisions for the upcoming narrowband PCS auction. Of the three MHz of 900 MHz spectrum allocated for narrowband PCS, two one-MHz blocks are currently divided into specific

channels for immediate licensing. The remaining one MHz of narrowband PCS spectrum currently is reserved to accommodate future development of narrowband PCS.

3. Thus far the Commission has conducted two auctions for narrowband PCS licenses. As a result of these two auctions, ten nationwide narrowband PCS licenses and six regional narrowband PCS licenses in five different regions, totalling 30 regional licenses, have been issued. Auctions have not yet been conducted for the narrowband PCS spectrum currently designated for licensing in 51 Major Trading Areas (MTAs) and 493 Basic Trading Areas (BTAs). In addition, the 204 MTA licenses and 1,968 BTA licenses designated as unpaired response channels also have not been auctioned.

Report and Order

A. Service Rules

1. Power and Antenna Height Limits

4. In the *PCS Memorandum Opinion & Order*, 59 FR 14115 (March 25, 1994), the Commission created regional service areas for narrowband PCS. Section 24.132 of its rules, which govern power and antenna height limits, currently applies to MTA and BTA service areas and does not mention regional service areas. See 47 CFR 24.132.

5. The Commission clarifies that § 24.132 of its rules applies to the regional service areas as well as MTA service areas. The Commission amends paragraphs (d) and (e) of § 24.132 to reflect that these rules apply to regional areas. See 47 CFR 24.132. Regional base stations, in addition to MTA base stations, must operate at reduced heights and power limits near service area borders in order to protect adjacent licensees from interference. In addition, the Commission clarifies that a narrowband PCS licensee holding a license for the same channel in an adjacent region or MTA is not required to reduce height and power to protect itself.

2. Canadian Interim Sharing Arrangement

6. On September 22, 1994, the United States and Canada entered into an interim sharing arrangement with respect to use of narrowband PCS channels in border areas. Under the *Canadian Interim Sharing Arrangement* (Sharing Arrangement), MTA and BTA licensees on certain narrowband PCS channels are not permitted to locate base stations within 75 miles of the U.S./Canadian border. These licensees are further prohibited from operating mobile stations in a manner that causes interference to the primary Canadian channels. Because the *Sharing Arrangement* was not yet finalized before the regional narrowband PCS auction bidder package was released, on August 22, 1994, the *Sharing Arrangement* was not included in the bidder package. However, by *Public Notice*, the Commission announced the *Sharing Arrangement* five days prior to the commencement of the regional narrowband PCS auction on October 26, 1994. Additionally, a *Public Notice* released December 21, 1994 invited comment on the effect of the *Sharing Arrangement* on narrowband PCS licensing.

7. The Commission concludes that special relief for parties affected by the Sharing Arrangement is not necessary. Over the next year the Commission will negotiate vigorously with Canada for full coordination and accommodation of narrowband PCS license winners. Moreover, parties were fully aware of the Sharing Arrangement at the time of the regional auction, given that a Public Notice concerning the Sharing Arrangement was released before the regional narrowband auction commenced. The Commission believes that the operating restrictions resulting from the Sharing Arrangement are matters that should have been considered by potential bidders in their valuation of the licenses for competitive bidding purposes.

B. Auction Rules

1. Establishment of Entrepreneurs' Block

8. In authorizing the Commission to use competitive bidding under § 309(j) of the Act, Congress mandated that the Commission "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in spectrum based services." Congress also mandated that the Commission utilize competitive bidding to promote economic opportunity and competition

and ensure that the new and innovative technologies are readily accessible to the American people. When deciding which provisions to adopt to encourage designated entity participation in particular services, the Commission has closely examined the specific characteristics of the service and has adopted a mix of provisions designed to balance the objectives of Congress set forth in § 309(j). Thus, the Commission has adopted measures designed to enhance the ability of designated entities to acquire licenses and to increase competition in the provision of wireless services generally. In narrowband PCS, for instance, the Commission has provided installment payments for small businesses and bidding credits for minority-owned and women-owned businesses. In broadband PCS, the Commission designated certain spectrum blocks for entrepreneurs' block licenses and provided bidding credits and installment plans for certain designated entities. In the 900 MHz Specialized Mobile Radio (SMR) service, the Commission provided bidding credits, installment payments, and reduced down payments for small businesses. Most recently, the Commission adopted bidding credits and installment payments for the paging services.

9. In the *Competitive Bidding Third Memorandum Opinion & Order/Further NPRM*, 59 FR 44058 (August 26, 1994), the Commission proposed service-specific modifications to its competitive bidding rules for the award of narrowband PCS licenses with MTA and BTA service areas. In an effort to facilitate designated entity participation in providing narrowband PCS, the Commission proposed to reserve both BTA frequency blocks and up to four MTA frequency blocks for bidding exclusively by entities with annual gross revenues of no more than \$125 million in the preceding two years and total assets of no more than \$500 million (entrepreneurs' blocks). The entrepreneurs' block proposal would have added channels 21 and 25 to the channels allocated for MTA and BTA licenses for which designated entity provisions applied. The Commission later sought additional comment on proposals for establishing narrowband PCS entrepreneurs' blocks in light of: (1) the results of the regional narrowband PCS auction; and (2) the Commission's reconsideration of its broadband PCS entrepreneurs' block rules in the *Competitive Bidding Fifth Memorandum Opinion and Order*, 59 FR 63210 (December 7, 1994).

10. Upon review of the record, the Commission will not establish an

entrepreneurs' block for narrowband PCS similar to its provisions in broadband PCS. The Commission agrees with those commenters who state that the results of the narrowband regional auction demonstrate that bidding credits and installment payments alone can facilitate participation by designated entities in the competitive process as well as securing licenses for the provision of narrowband PCS. Additionally, the Commission has the experience of other auctions, such as 900 MHz Specialized Mobile Radio, where it did not have an entrepreneurs' block but, nonetheless, had many successful designated entity applicants.

11. Also, the Commission considers narrowband PCS to be less capital intensive than broadband PCS, thereby making it more likely that small businesses, for example, can acquire the financing to win these licenses, particularly for MTAs. Thus, the Commission concludes there is no need to insulate designated entities from other bidders and that bidding credits coupled with installment payments should satisfy its obligations under § 309(j) of the Communications Act as they have in so many other auctions. The Commission also points out that its partitioning proposal could provide for designated entities to acquire narrowband PCS licenses post-auction. Moreover, narrowband PCS licensees are free to transfer and assign licenses immediately (unlike broadband PCS), providing further flexibility to acquire licenses post-auction.

2. Definition of Minority Groups

12. The Commission will continue to request bidder information on the FCC Form 175 as to minority- and/or women-owned status, in addition to small business status, in order to monitor whether it has accomplished substantial participation by minorities and women through the broad provisions available to small businesses. Currently, the narrowband PCS rules define "members of minority groups" as "individuals of African-American, Hispanic-surnamed, American Eskimo, Aleut, American Indian and Asian American extraction." In response to numerous inquiries, the Commission revised this definition in its broadband PCS rules to conform with the definition used in other contexts. Thus, § 24.720(i) of the Commission's rules for broadband PCS now defines members of minority groups to include "Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders."

13. In the *Competitive Bidding Fifth Memorandum Opinion and Order*, 59 FR 63210 (December 7, 1994), the

Commission noted that it would make the same definitional correction made in the broadband PCS context to the definition of minority groups used in the narrowband PCS auction rules. The Commission also recently amended its general competitive bidding definition of minority, § 1.2110(b)(2), to adopt this definition of minority. Thus, in an effort to maintain consistency throughout its auction rules for various services, the Commission revises the definition of "members of minority groups" in its narrowband PCS auction rules to include "Blacks, Hispanics, American Indians, Alaskan Native, Asians, and Pacific Islanders." See 47 CFR § 24.720(i).

C. Conclusion

The Commission believes that the rules set forth for narrowband PCS in this *Report and Order* will promote the public policy goals set forth by Congress.

D. Procedural Matters

A. Ex Parte Rules—Non-Restricted Proceeding

15. This is a non-restricted rule making proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

B. Regulatory Flexibility Act Analysis

16. As required by the Regulatory Flexibility Act, see 5 U.S.C. § 604, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the expected impact on small entities of the policies and rules proposed and adopted in the *Report and Order* section of this *Report and Order* and *Further NPRM (Report and Order)*. An Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third Memorandum Opinion and Order and Further NPRM*, 59 FR 44058 (August 28, 1994) in this proceeding. Additionally, Final Regulatory Flexibility Analyses were incorporated in the *First Report and Order*, 58 FR 42681 (August 11, 1993), the *Third Report and Order*, 59 FR 26741 (May 24, 1994), the *Third Memorandum Opinion and Order and Further NPRM*, 59 FR 44058 (August 26, 1994) and the *Second Memorandum Opinion and Order*, 59 FR 46195 (September 7, 1994) in this proceeding. Written comments to the proposals, including the Initial Regulatory Flexibility Analysis, were requested. As noted in these previous final analyses, this proceeding will establish a system of competitive bidding for choosing

among certain applications for initial licenses, and will carry out statutory mandates that certain designated entities, including small entities, be afforded an opportunity to participate in the competitive bidding process and in the provision of spectrum-based services.

A. Need for and Objective of Rules

17. This *Report and Order* was initiated to adopt rules and secure comment on proposals for revising rules for narrowband Personal Communications Services (PCS). Such changes to the rules for the narrowband PCS service would promote efficient licensing and enhance the service's competitive potential in the Commercial Mobile Radio Service marketplace. The adopted rules are based on the competitive bidding authority of § 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(j), which authorizes the Commission to use auctions to select among mutually exclusive initial applications in certain services, including narrowband PCS. The Omnibus Budget Reconciliation Act of 1993 (Budget Act), Public Law 103-66, Title VI, § 6002, and the subsequent Commission actions to implement it are intended to establish a system of competitive bidding for choosing among certain applications for initial licenses, and carry out statutory mandates that certain designated entities, including small businesses, are afforded an opportunity to participate in the competitive bidding process and in the provision of narrowband PCS services.

B. Issues Raised by the Public in Response to the Initial Analysis

18. No party suggested modifications specifically to the Initial Regulatory Flexibility Analysis. The following issues will apply to small businesses.

1. Power and Antenna Height Limits

19. The Commission clarifies that § 24.132 of its rules applies to the regional service areas as well as Major Trading Area (MTA) service areas. The Commission amends paragraphs (d) and (e) of § 24.132 of its rules, 47 CFR 24.132, to reflect that these rules apply to regional areas. Regional base stations, in addition to MTA base stations, must operate at reduced heights and power limits near service area borders in order to protect adjacent licensees from interference. In addition, the Commission clarifies that a narrowband PCS licensee holding a license for the same channel in an adjacent region or MTA is not required to reduce height and power to protect itself.

20. *Auction Rules*. Based upon the comments and record before it, the Commission determines that it will not establish an entrepreneurs' block for narrowband PCS similar to its provisions in broadband PCS. The Commission agrees with those commenters who argue that the results of the previously-held narrowband regional auction demonstrate that bidding credits and installment payments can facilitate participation by designated entities in the competitive process, as well as securing licenses for the provision of narrowband PCS. Additionally, the Commission has the experience of other auctions, such as 900 MHz Specialized Mobile Radio, which did not have an entrepreneurs' block but, nonetheless, had many successful designated entity applicants. Also, the Commission considers narrowband PCS to be less capital intensive than broadband PCS, thereby making it more likely that small businesses, for example, can acquire the financing to win these licenses, particularly for MTAs. Thus, the Commission concludes there is no need to insulate designated entities from other bidders and that bidding credits coupled with installment payments should satisfy its obligations under § 309(j) of the Communications Act as they have in so many other auctions.

21. *Definition of Minority Groups*. In the *Competitive Bidding Fifth Memorandum Opinion and Order*, the Commission noted that it would make the same definitional correction made in the broadband PCS context to the definition of minority groups used in the narrowband PCS auction rules. Thus, in an effort to maintain consistency throughout its auction rules for various services, the Commission revises its definition of "members of minority groups" in its narrowband PCS auction rules to include "Blacks, Hispanics, American Indians, Alaskan Native, Asians, and Pacific Islanders."

C. Description and Number of Small Entities Involved

22. The rules adopted in this *Report and Order* apply to current narrowband PCS operators and new entrants into the narrowband PCS market. Under these rules, mutually exclusive applications for narrowband PCS licenses will be resolved through competitive bidding procedures.

23. The Commission does not know how many narrowband PCS licenses will be granted or auctioned, as it has not yet determined the size or number of such licenses. Two auctions of narrowband PCS licenses have been conducted for a total of 41 licenses, out

of which 11 were obtained by small businesses owned by members of minority groups and/or women. Small businesses were defined as those with averaged gross revenues for the prior three fiscal years of \$40 million or less. For purposes of this Final Regulatory Flexibility Analysis, the Commission is utilizing the Small Business Administration (SBA) definition applicable to radiotelephone companies, *i.e.*, an entity employing less than 1,500 persons. Not all of the narrowband PCS licenses have yet been awarded. There is therefore no basis to determine the number of licenses that will be awarded to small entities in future auctions. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of prospective narrowband PCS licensees can be made, the Commission assumes, for purposes of the evaluations and conclusions in this Final Regulatory Flexibility Analysis, that all the remaining narrowband PCS licenses will be awarded to small entities.

D. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

24. Narrowband PCS licensees may be required to report information concerning the location of their transmission sites under some circumstances, although generally they will not be required to file applications on a site-by-site basis. Additionally, narrowband PCS license applicants will be subject to reporting and recordkeeping requirements to comply with the competitive bidding rules. Specifically, applicants will apply for narrowband PCS licenses by filing a short-form application (FCC Form 175), and will file a long-form application (FCC Form 600) at the conclusion of the auction. Additionally, entities seeking treatment as small businesses will need to submit information pertaining to the gross revenues of the small business applicant and its affiliates and certain investors in the applicant. Such entities will also need to maintain supporting documentation at their principal place of business.

E. Steps Taken To Minimize Burdens on Small Entities

25. Section 309(j)(3)(B) of the Communications Act, 47 CFR 309(j)(3)(B), provides that in establishing eligibility criteria and bidding methodologies the Commission shall, *inter alia*, promote economic opportunity and competition and ensure that new and innovative technologies are readily accessible by avoiding

excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women. Section 309(j)(4)(A) provides that in order to promote such objectives, the Commission shall consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods. Therefore, the Commission finds that it is appropriate to establish special provisions in the narrowband PCS rules for competitive bidding by small businesses. The Commission believes that small businesses applying for narrowband PCS licenses should be entitled to some type of bidding credits and should be permitted to pay their bids in installments. In awarding narrowband PCS licenses, the Commission is committed to meeting the statutory objectives of promoting economic opportunity and competition, of avoiding excessive concentration of licenses, and of ensuring access to new and innovative technologies by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.

26. In determining small business status, the Commission will consider the gross revenues of the small business applicant, its affiliates, and certain investors in the applicant. The Commission will attribute the gross revenues of all controlling principals in the small business applicant as well as the gross revenues of affiliates of the applicant. The Commission will require that in order for an applicant to qualify as a small business, qualifying small business principals must maintain control of the applicant.

F. Significant Alternatives Considered and Rejected

27. The Commission considered and rejected a proposal to give additional relief to narrowband PCS licensees affected by an interim sharing arrangement with respect to use of narrowband PCS channels in border areas between the United States and Canada. The Commission determined that such special relief is not necessary, as potential bidders to this spectrum had adequate notice of such interim arrangement and the interim arrangement also provides licensees with adequate spectrum protection.

28. The Commission also considered and rejected a proposal to establish an

entrepreneur's block for narrowband PCS similar to the Commission's provisions for such a block of spectrum in broadband PCS. The Commission agrees with those commenters who argue that the results of the previously-conducted narrowband regional auction demonstrate that bidding credits and installment payments can facilitate participation by designated entities in the competitive process as well as securing licenses for the provision of narrowband PCS. Additionally, the Commission has the experience of other auctions, such as 900 MHz Specialized Mobile Radio, where no entrepreneurs' block existed but, nonetheless, many successful designated entity applicants existed. The Commission also considers narrowband PCS to be less capital intensive than broadband PCS, thereby making it more likely that small businesses, for example, can acquire the financing to win these licenses, particularly for MTAs. Thus, the Commission concludes there is no need to insulate designated entities from other bidders and that bidding credits coupled with installment payments should satisfy its obligations under § 309(j) of the Communications Act as they have in so many other auctions. Moreover, narrowband PCS licensees are free to transfer and assign licenses immediately (unlike broadband PCS), providing further flexibility to acquire licenses post-auction.

29. The Commission also considered and rejected a proposal to maintain its definition of minority groups eligible for special provisions in the narrowband PCS auction. The Commission instead decided to modify its definition in order to bring it into conformity with the Commission's definition for broadband PCS, namely, "Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders."

G. Report to Congress

30. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order/Further NPRM*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this Final Regulatory Flexibility Analysis will also be published in the **Federal Register**.

C. Ordering Clauses

31. Accordingly, it is ordered that Part 24 of the Commission's Rules is amended as specified below, effective July 21, 1997.

32. It is further ordered that the Petition for Reconsideration of the

Second Memorandum Opinion and Order in GN Docket 90-314 and ET Docket 92-100 filed by the Puerto Rico Telephone Company is dismissed.

33. Authority for issuance of this Report and Order is contained in §§ 4(i), 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and 309(j).

List of Subjects in 47 CFR Part 24

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission

William F. Caton,
Acting Secretary.

Rule Changes

Part 24 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 24—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation for part 24 continues to read as follows:

Authority: Secs. 4, 301, 302, 303, 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 301, 302, 303, 309 and 332, unless otherwise noted.

2. Section 24.132 is amended by revising paragraphs (d) and (e) to read as follows:

§ 24.132 Power and antenna height limits.

(d)(1) MTA and regional base stations located between 200 kilometers (124 miles) and 80 kilometers (50 miles) from their licensed service area border are limited to the power levels in the following table:

Antenna HAAT in meters (feet) (see § 24.53 for HAAT calculation method)	Effective radiated power (e.r.p.) (watts)
183 (600) and below	3500
183 (600) to 208 (682)	3500 to 2584
208 (682) to 236 (775)	2584 to 1883
236 (775) to 268 (880)	1883 to 1372
268 (880) to 305 (1000)	1372 to 1000
305 (1000) to 346 (1137) ..	1000 to 729
346 (1137) to 394 (1292) ..	729 to 531
394 (1292) to 447 (1468) ..	531 to 387
447 (1468) to 508 (1668) ..	387 to 282
508 (1668) to 578 (1895) ..	282 to 206
578 (1895) to 656 (2154) ..	206 to 150
656 (2154) to 746 (2447) ..	150 to 109
746 (2447) to 848 (2781) ..	109 to 80
848 (2781) to 963 (3160) ..	80 to 58
963 (3160) to 1094 (3590) ..	58 to 42
1094 (3590) to 1244 (4080) ..	42 to 31
1244 (4080) to 1413 (4636) ..	31 to 22
Above 1413 (4636)	16

(2) For heights between the values listed in the table, linear interpolation

shall be used to determine maximum e.r.p.

(e) MTA, BTA and regional base stations located less than 80 kilometers (50 miles) from the licensed service area border must limit their effective radiated power in accordance with the following formula:

$$PW = 0.0175 \times dkm^{**} \times 6.6666 \times hm^{**} - 3.1997$$

PW is effective radiated power in watts
dkm is distance in kilometers
hm is antenna HAAT in meters; see § 24.53 for HAAT calculation method

3. Section 24.320(e) is revised to read as follows:

§ 24.320 Definitions.

* * * * *

(e) *Members of Minority Groups.* Members of minority groups include Blacks, Hispanics, American Indians, Alaskan Natives, Asians and Pacific Islanders.

* * * * *

[FR Doc. 97-13148 Filed 5-20-97; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. 74-14; Notice 118]

RIN 2127-AG75

Anthropomorphic Test Dummy; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This document adopts modifications to the Hybrid III test dummy, which is specified by the agency for use in compliance testing under Standard No. 208, *Occupant crash protection*. The agency has decided to require a six axis neck transducer, thereby allowing the test dummy to measure neck flexion, extension moments and tension, compression and shear forces. The agency has determined that immediate action is in the public interest since the agency needs to ensure compliance with the recent amendment to Standard No. 208 allowing air bag depowering. NHTSA is also requesting comments on whether the agency should make permanent its amendment to the Hybrid III dummy.

DATES: Effective Date: The amendments made by this interim final rule are effective May 20, 1997.

Incorporation by Reference Date: The incorporation by reference of the material listed in this document is approved by the Director of the Federal Register as of May 20, 1997.

Comments. Comments must be received on or before July 7, 1997.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Stanley Backaitis, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-4912. Fax: (202) 366-4329.

For legal issues: Mr. Marvin L. Shaw, NCC-20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION:

I. Background

On March 19, 1997, NHTSA published a final rule that temporarily amends the agency's occupant crash protection standard to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less aggressively. (62 FR 12960) The agency took this action to provide an immediate, interim solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants.

As part of the final rule, NHTSA decided to adopt neck injury criteria. The agency stated that such criteria are necessary to ensure that a vehicle is equipped with air bags that have protective value. Absent these criteria, some vehicles could comply with the 125 ms pulse sled test without air bags. The agency further stated that neck compression loads, bending moments, and tension and shear forces can be significant sources of potential injuries in crashes. NHTSA concluded that the inclusion of neck injury criteria should aid in measuring air bag effectiveness and may ultimately improve crash protection.

In the final rule, NHTSA stated that the proposal (62 FR 807; January 6,