Dated: April 28, 2008.

Michael K. Buckley,

Deputy Assistant Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 24 and 27

[WT Docket No. 03–264; FCC 08–85]

Amendment of Various Rules Affecting Wireless Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts certain amendments to its rules governing radiated power limits for broadband Personal Communications Services in the 1850–1915/1930–1995 MHz bands (PCS) and certain Advanced Wireless Services (AWS) in the 1710–1755/2110–2155 MHz bands. The rule changes offer greater flexibility to PCS and AWS operators, are more technologically neutral, will better accommodate broadband technologies, and will fulfill the Commission's statutory mandate under section 11 of the Communications Act of 1934, as amended (the Act). *See* 47 U.S.C. 161.

DATES: Effective June 2, 2008.

FOR FURTHER INFORMATION CONTACT: Nina Shafran, Wireless Telecommunications Bureau, at *Nina.Shafran@fcc.gov*, or (202) 418–2781.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order*, in WT Docket No. 03–264, FCC No. 08–85, adopted March 18, 2008 and released March 21, 2008. The full text of the document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563, or via e-mail at *FCC@BCPIWEB.COM*. The full text may also be downloaded at *http://www.fcc.gov*. Alternative formats are available to persons with disabilities (Braille, large print, electronic files and audio format) by e-mailing *fcc504@fcc.gov*, or calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), or (202) 418–0432 (TTY).

Synopsis of the Third Report and Order

In this *Third Report and Order*, the Commission adopts certain amendments to the PCS and AWS radiated power rules, consistent with actions previously taken by the Commission in the 700 MHz Commercial Services Band *Report and Order and Further Notice of Proposed Rulemaking* (*April 700 MHz Order*) at 72 FR 27688, May 16, 2007 (*Report and Order*), and at 72 FR 24238, May 2, 2007 (*FNPRM*), and the *700 MHz Second Report and Order* (*August 700 MHz Order*) at 72 FR 48814, August 24, 2007. On July 22, 2005, the Commission adopted a *Report and Order and Further Notice of Proposed Rulemaking* in a Biennial Review proceeding commenced in 2004 to streamline and harmonize certain licensing provisions in the wireless radio services (WRS) (as defined in the Commission's rules) at 70 FR 61049, October 20, 2005 (*Report and Order*), and at 70 FR 60770, October 19, 2005 (*FNPRM*) (*Streamlining FNPRM*). In that document, the Commission sought comment on certain proposed amendments—particularly the proposed changes introduced into the record by CTIA-The Wireless Association (CTIA)—to the Commission's radiated power rules for PCS and AWS. The Commission also sought comment on whether the changes proposed by CTIA for PCS and AWS (CTIA Proposal) should be applicable to other services, such as part 22 cellular, additional part 27 services, including the 700 MHz Commercial Services Band, as well as, other services specifically addressed in certain parties' submissions in this docket, such as the 1670–1675 MHz band. Additionally, the Commission considered whether changes to other technical rules might be warranted in conjunction with changes to the radiated power rules. In the *April 700 MHz Order*, in which the Commission combined various proceedings regarding the 700 MHz band, the Commission also incorporated issues raised in the instant proceeding (WT Docket No. 03–264) as they pertain to the 700 MHz band, and extended certain relief requested by CTIA to the 700 MHz Commercial Services Band. Relief included (1) implementation of a power spectral density (PSD) model for measuring radiated power, based on ''watts per megahertz of spectrum bandwidth'' rather than on ''watts per emission,'' and (2) permitting radiated power to be measured using ''average'' rather than ''peak'' values. In the *August 700 MHz Order*, the Commission specified power limits in terms of PSD for 700 MHz public safety broadband operations, and also specified that power for 700 MHz public safety broadband operations must be measured in terms of average rather than peak values. In the *Third Report and Order*, the Commission maintains regulatory parity and extends similar relief to the PCS and AWS bands. Specifically, in the PCS and AWS radiated power rules, the Commission: (1) Adds a PSD model for licensees operating with bandwidth greater than one megahertz; and (2) modifies the rules to permit radiated power to be measured and expressed using average rather than peak values. Also in the PCS and AWS radiated power rules, the Commission specifies certain coordination requirements for licensees that operate at higher power levels permissible in rural areas.

I. Discussion

A. Power Spectral Density Model

1. Consistent with its decision in the *April 700 MHz Order*, and based on the record developed in response to the *Streamlining FNPRM*, the Commission adopts a PSD model for defining equivalent isotropically radiated power (EIRP) limits for PCS and AWS base stations, thereby establishing EIRP caps on a ''per megahertz of spectrum bandwidth'' basis rather than on a ''per emission'' basis. The Commission agrees with CTIA and other commenters that application of this watts-per-megahertz approach to radiated power in these flexible bands is more likely to encourage innovation and will not require modifications as new technologies emerge.

2. The Commission also finds that narrowband licensees should not be required to operate below current EIRP limits, and therefore establishes a bandwidth dividing line for purposes of applying PSD in the modified rule. Systems using emissions that have a bandwidth wider than 1 megahertz generally use their entire spectrum contiguously in each cell, whereas systems using emissions with a bandwidth less than 1 megahertz use, at each cell, a number of narrower channels separated by several channels not used in that cell. If a technology is developed using 500 kilohertz–1 megahertz bandwidth, the technology is more likely to use different channels at different cells like other narrowband systems, rather than a spread-spectrum approach as is typically used in wideband systems. Consistent with recent amendments to the radiated

power rules in the *April 700 MHz Order* (regarding the 700 MHz Commercial Services band) and the *August 700 MHz Order* (regarding public safety broadband operations), the Commission will allow PCS and AWS licensees employing bandwidths greater than 1 megahertz to meet a base station power limit of 1640 watts/MHz EIRP (that is, no more than 1640 watts EIRP in any 1 megahertz band segment). PCS and AWS licensees operating with bandwidths of 1 megahertz or less will, however, continue to be permitted to operate at power levels up to 1640 watts EIRP over their bandwidth. Thus, for example, a licensee transmitting a signal with a bandwidth of 5 megahertz could employ a power level of 8200 watts EIRP over the 5 megahertz bandwidth, with each 1 megahertz band segment within the 5 megahertz bandwidth being limited to 1640 watts EIRP; and a licensee transmitting a signal with a bandwidth of 200 kilohertz could employ a power level of 1640 watts EIRP over the 200 kilohertz bandwidth. Consistent with the current PCS and AWS rules, and pursuant to amendments via a *Report and Order and Further Notice of Proposed Rulemaking* (*Rural R&O*) at 69 FR 75144 (*Report and Order*), and 69 FR 75174 (*FNPRM*) at December 15, 2004, in WT Docket No 02–381, licensees will be permitted in rural areas to operate at double the non-rural power limit, subject to the new PSD model; that is, the rural radiated power limit is increased from 3280 watts EIRP to 3280 watts/MHz EIRP for PCS and AWS licensees operating with bandwidth wider than 1 megahertz.

3. *Coordination*. In order to balance the need for licensee flexibility with the Commission's concern for limiting potential increased interference from higher power wideband operations, the Commission will, consistent with the Commission's current rules, require rural PCS and AWS licensees operating at greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP to coordinate with adjacent block licensees in their respective services that are authorized to operate within 75 miles of the transmitting base station. Further, consistent with current rules: (1) PCS rural operation greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP will be limited to base stations located more than 120 kilometers (75 miles) from the Canadian border and more than 75 kilometers (45 miles) from the Mexican border; and (2) AWS rural stations operating at greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP will be required to coordinate in advance with all Government and non-Government satellite entities in the 2025–2110 MHz band and with all Broadband Radio Service (BRS) licensees authorized under part 27 in the 2155–2160 MHz band.

B. Peak vs. Average Radiated Power Limits

4. The Commission's PCS and AWS rules currently limit permissible EIRP on a peak basis. A number of the newer technologies, such as Orthogonal Frequency Division Multiplexing (OFDM) and Wideband Code Division Multiple Access (WCDMA), produce an emission with sub-microsecond power spikes. When measuring and expressing power levels in terms of peak EIRP, transient power spikes of extremely short duration might unnecessarily govern the operating power of stations that use the newer, wideband technologies. Consistent with the Commission's decision to permit licensees to meet radiated power limits on an average basis in the 700 MHz Commercial Services Band as well as for 700 MHz public safety broadband operations, the Commission finds that the public interest would be served by amending the rules to similarly treat PCS licensees and AWS licensees. The Commission agrees with CTIA that average measurement techniques should be permitted for PCS and AWS base stations, and also agrees with Ericsson that the same reasons for permitting average power measurements for base stations apply for mobile and portable units as well. Accordingly, the Commission adopts changes to its rules to permit average power limits for PCS and AWS base stations, mobiles and portables.[1]

5. Measurement of average power for PCS and AWS operations under the revised rules, for base stations as well as handsets, must be made during a period of continuous transmission based on a 1 MHz resolution bandwidth. The Commission directs parties to consult with the FCC Laboratory staff for guidance on the appropriate method of measuring average power for particular technologies. The Commission also clarifies that the calculation method that AWS licensees must use if they choose to continue measuring power in terms of peak, rather than average, values is the same method currently specified for PCS licensees. *See* 47 CFR 24.232(d).

6. The Commission also concludes that it serves the public interest to adopt a peak-to-average ratio (PAR) limit of 13 dB to mitigate the potential for undesirable interference that could result otherwise from the use of average values. As in the *April 700 MHz Order*, the Commission finds that limiting PAR to 13 dB for PCS and AWS licensees strikes the right balance between enabling such licensees to use modulation schemes with high PARs (such as OFDM) and protecting other licensees from high PAR transmissions.

C. No Doubling of Baseline Power Limits

7. Based on the record in this proceeding, and taking into account the Commission's adoption of the PSD model for wideband PCS and AWS operations, the Commission finds no justification for a baseline doubling of EIRP limits for PCS or AWS base stations at this time. Comments filed in response to the *Streamlining FNPRM* did not contain specific examples of problems caused by the current EIRP limits that could be solved by increasing the limits. Moreover, some commenters expressly recognize that today's technologies do not fully utilize the proposed higher power rates, and the record does not reflect that today's PCS systems, for example, use the full radiated power currently provided under the Commission's existing rules. With respect to rural operations, commenters did not demonstrate that rural systems have been deployed taking full advantage of the recently doubled rural radiated power limits and that, notwithstanding such increased power, rural coverage is inadequate. Commenters thus failed to justify a need for doubling radiated power levels independent of implementing a PSD model. The Commission emphasizes its conclusion that adoption of the PSD model is forward looking and will foster broadband development. It will permit licensees deploying WCDMA, for example, to operate at up to 8200 watts EIRP (non-rural) and 16,400 watts EIRP (rural), whereas under the Commission's existing rules, licensees deploying WCDMA systems are limited to 1640 watts EIRP (non-rural) and 3280 watts EIRP (rural). The Commission's decision declining to further increase PCS and AWS radiated power limits independent of a PSD model is consistent with the Commission's recent actions in the *April 700 MHz Order* and the *August 700 MHz Order*.

D. No Changes to Rules for Wireless Services Other Than PCS and AWS

8. In the *Streamlining FNPRM*, the Commission considered whether the

[1] Licensees will remain subject to existing environmental regulations. *See, e.g.*, 47 CFR 1.1307 and 1.1310; *id.* 2.1091 (governing RF radiation exposure evaluation specifically for mobile devices); *id.* 2.1093 (governing RF radiation exposure evaluation specifically for portable devices).

CTIA Proposal should be applicable to part 22 services and other part 27 services that operate under a flexible regulatory framework similar to PCS, as well as other services. In adopting or amending any technical rules, the Commission must take into account the potential for increased interference as well as other adverse effects on licensees. Certain factors at issue with one service may not be present or relevant with other services.

9. The Commission specifically sought comment on application of the CTIA Proposal to the 2.3 GHz band, but concludes that the record does not support such application to this band at this time. The Commission also specifically considered and sought comment on application of the CTIA Proposal to BRS and Educational Broadband Service (EBS) stations operating in the 2500 MHz bands, as well as stations operating in the 800 MHz cellular band. Because frequencies immediately adjacent to the 800 MHz cellular band and the 2500 MHz BRS/EBS band are still undergoing significant restructuring to support a mixture of technologies and services, the Commission decides to maintain the radiated power limits set forth in the current rules for those bands rather than implementing changes at this time. The Commission also concludes that this proceeding is not the appropriate forum in which to consider concerns raised by TerreStar about safeguards for the AWS H–Block systems; those concerns are more appropriately resolved in the relevant ongoing proceeding.

10. *1670–1675 MHz Band.* Section 27.50(f)(1) of the Commission's rules specifies a peak 2 kW EIRP limit for fixed and base station operations in the 1670–1675 MHz band. In the *Streamlining FNPRM*, the Commission sought comment on the request by OP LLC (a subsidiary of Crown Castle International Corp (Crown Castle)), the sole nationwide licensee in the 1670–1675 MHz band, to apply PSD to the entire 1670–1675 MHz band and to double the 2 kW power limit for rural markets to 4 kW EIRP. On the same date on which the Commission released the *Streamlining FNPRM* (August 9, 2005), Crown Castle separately filed a request for waiver of the 2 kW EIRP limit for the 1670–1675 MHz band and requested authority to operate in the band using a PSD model at increased power levels, specifically at 4 kW EIRP/MHz in non-rural areas and at 8 kW EIRP/MHz in rural areas. Crown Castle at that time planned to launch a new one-way (base-to-mobile) nationwide service (called Modeo) to wireless handsets with at least 10 video and 24 audio channels using the new Digital Video Broadcasting—Transmission System for Handheld Terminals (DVB–H) technology. Crown Castle later limited its request to thirty initial markets and stated that it would operate using a 5-MHz carrier bandwidth at each base station.

11. In February 2007, the Commission conditionally granted Crown Castle waiver relief, authorizing deployment of its proposed system using PSD at 4 kW/MHz and 8 kW/MHz for non-rural and rural areas, respectively, limited to thirty specified markets and the White Mountain Apache Reservation in Arizona, for which Crown Castle had been the recipient of a tribal lands bidding credit in the Commission's 2003 Auction No. 46 via *Memorandum Opinion and Order* at 22 FCC Rcd 4322 (rel. Feb. 26, 2007) (*Crown Castle Waiver Order*). In order to limit interference, the Commission expanded the geographic area currently set forth in its part 1 rules within which Crown Castle must coordinate its 1670–1675 MHz band operations with certain incumbent federal government users. The Commission also adopted detailed coordination and consultation conditions to protect vital National Weather Service and radio astronomy facilities from harmful interference. The waiver grant was subject to several other conditions.

12. In July 2007, Crown Castle announced that it would not deploy a nationwide DVB–H system to provide Modeo service for which it had sought increased power levels. Rather, effective July 23, 2007, Crown Castle leased, via a *de facto* transfer lease, its spectrum in the 1670–1675 MHz band to TVCC One Six Holdings, LLC (TVCC).

13. In the *Third Report and Order*, the Commission declines to apply the PSD model by rule to the entire nationwide 1670–1675 MHz band as Crown Castle requested. Because Crown Castle has chosen not to deploy a DVB–H system in the band, the record is insufficient for the Commission to determine whether the public interest would be served by granting additional power for other markets for the 1670–1675 MHz band. TVCC is entitled to avail itself of the relief granted through waiver for the 30 markets specified in Crown Castle's Initial Market Deployment Plan, subject to the conditions in the *Crown Castle Waiver Order*. In addition, TVCC may submit a waiver request, with appropriate justification, for similar relief in additional markets.

14. Accordingly, the rule changes that the Commission adopts in this document are limited to those governing PCS and AWS stations, as defined at the outset of this document.

II. Procedural Matters

A. Regulatory Flexibility Act

1. Final Regulatory Flexibility Certification

15. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Streamlining FNPRM* in this Biennial Review proceeding, which the Commission launched in 2004 to fulfill its mandate to conduct biennial reviews under section 11 of the Act. With the goal of streamlining and harmonizing certain WRS licensing provisions, the Commission sought written comment on certain proposed amendments to its radiated power rules. The Commission also requested written comment on whether changes to other technical rules might be warranted in conjunction with changes to the radiated power rules. Additionally, the Commission sought written public comment on the IRFA. No comments specifically addressed the IRFA.

16. In the *Third Report and Order*, the Commission takes further steps to streamline and harmonize its rules related to WRS by adopting modifications to the rules governing radiated power limits for PCS and AWS (as defined above). Specifically, whereas the existing rules set the radiated power limits in terms of watts-per-emission regardless of bandwidth size, the Commission will now permit use of a PSD model, with radiated power levels calculated on a watts-per-megahertz basis, when operating with greater than 1 megahertz bandwidth. The PSD approach offers more flexibility, is more technologically neutral, and will better accommodate newer technologies employing wider bandwidths. Also, the PSD model will potentially reduce infrastructure costs, thus enabling rural service providers to offer enhanced service in these areas. The Commission also will now permit PCS and AWS licensees to measure and express radiated power on an average rather than peak basis. This approach is more realistic and more appropriate for newer wireless technologies producing emissions with sub-microsecond power spikes.

17. Because of interference concerns, the Commission is declining to double the baseline radiated power limits for PCS/AWS. In addition, to mitigate the potential for increased interference to other licensees that could result from measuring average (rather than peak) radiated power, the Commission is

adopting a PAR limit of 13 dB. At this time, the Commission is not adopting similar changes to the radiated power rules for other services, but maintains the February, 2007 waiver relief granted to Crown Castle in the 1670–1675 MHz band. As Crown Castle is the sole national licensee of spectrum in that band, the waiver relief does not directly affect any other licensees.

18. The above-described rule changes are generally supported by the commenting parties. None of the modifications imposes increased reporting burdens on PCS or AWS licensees, nor does the Commission expect the rule changes to result in increased costs for such licensees. As noted above, infrastructure costs potentially will be reduced, particularly in rural areas. The changes are designed to improve flexibility for licensees employing wideband technologies used to provide advanced, high speed services, while maintaining interference control. The Commission believes they will prove beneficial to such PCS and AWS licensees and not have any adverse economic impact on them. Therefore, the Commission certifies that the rule changes adopted in the *Third Report and Order* will not have a significant economic impact on a substantial number of small entities. This Final Regulatory Flexibility Certification conforms to the RFA. *See* 5 U.S.C. 605(b).

2. Report to Congress

19. The Commission will send a copy of this *Third Report and Order*, including the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A). In addition, the *Third Report and Order* (including the Final Regulatory Flexibility Certification) will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

B. Paperwork Reduction Act of 1995

20. This *Third Report and Order* does not contain any proposed, new, or modified information collection subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. *See* 44 U.S.C. 3506(c)(4).

III. Ordering Clauses

21. Pursuant to the authority of sections 4(i), 7, 11, 303(c), 303(f), 303(g), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r), and 332, the rule changes as set forth *are adopted*.

22. The rule changes as set forth *will become effective* June 2, 2008.

23. The Commission's Consumer and Governmental Affairs Bureau *shall send* a copy of this *Third Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 24

Communications common carriers, Communications equipment, Radio, Wireless radio services.

47 CFR Part 27

Communications common carriers, Radio, Wireless radio services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rules Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 24 and 27 as follows:

PART 24—PERSONAL COMMUNICATIONS SERVICES

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

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332.

■ 2. Revise § 24.232 to read as follows:

§ 24.232 Power and antenna height limits.

(a) (1) Base stations with an emission bandwidth of 1 MHz or less are limited to 1640 watts equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT, except as described in paragraph (b) below.

(2) Base stations with an emission bandwidth greater than 1 MHz are limited to 1640 watts/MHz equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT, except as described in paragraph (b) below.

(3) Base station antenna heights may exceed 300 meters HAAT with a corresponding reduction in power; *see* Tables 1 and 2 of this section.

(4) The service area boundary limit and microwave protection criteria specified in §§ 24.236 and 24.237 apply.

TABLE 1.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH OF 1 MHZ OR LESS

HAAT in meters	Maximum EIRP watts
≤300	1640
≤500	1070
≤1000	490
≤1500	270
≤2000	160

TABLE 2.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH GREATER THAN 1 MHZ

HAAT in meters	Maximum EIRP watts/MHz
≤300	1640
≤500	1070
≤1000	490
≤1500	270
≤2000	160

(b) (1) Base stations that are located in counties with population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census, with an emission bandwidth of 1 MHz or less are limited to 3280 watts equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT.

(2) Base stations that are located in counties with population densities of 100 persons or fewer per square mile, based upon the most recently available population statistics from the Bureau of the Census, with an emission bandwidth greater than 1 MHz are limited to 3280 watts/MHz equivalent isotropically radiated power (EIRP) with an antenna height up to 300 meters HAAT.

(3) Base station antenna heights may exceed 300 meters HAAT with a corresponding reduction in power; *see* Tables 3 and 4 of this section.

(4) The service area boundary limit and microwave protection criteria specified in §§ 24.236 and 24.237 apply.

(5) Operation under this paragraph (b) at power limits greater than permitted under paragraph (a) of this section must be coordinated in advance with all broadband PCS licensees authorized to operate on adjacent frequency blocks within 120 kilometers (75 miles) of the base station and is limited to base stations located more than 120 kilometers (75 miles) from the Canadian border and more than 75 kilometers (45 miles) from the Mexican border.

TABLE 3.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH OF 1 MHZ OR LESS

HAAT in meters	Maximum EIRP watts
≤300	3280
≤500	2140
≤1000	980
≤1500	540
≤2000	320

TABLE 4.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS, WITH EMISSION BANDWIDTH GREATER THAN 1 MHZ

HAAT in meters	Maximum EIRP watts/MHz
≤300	3280
≤500	2140
≤1000	980
≤1500	540
≤2000	320

(c) Mobile and portable stations are limited to 2 watts EIRP and the equipment must employ a means for limiting power to the minimum necessary for successful communications.

(d) Power measurements for transmissions by stations authorized under this section may be made either in accordance with a Commission-approved average power technique or in compliance with paragraph (e) of this section. In both instances, equipment employed must be authorized in accordance with the provisions of § 24.51. In measuring transmissions in this band using an average power technique, the peak-to-average ratio (PAR) of the transmission may not exceed 13 dB.

(e) Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, *etc.*, so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

Note to § 24.232: Height above average terrain (HAAT) is to be calculated using the method set forth in § 24.53 of this part.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 3. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

■ 4. Revise § 27.50(d) to read as follows:

§ 27.50 Power and antenna height limits.

* * * * *

(d) The following power and antenna height requirements apply to stations transmitting in the 1710–1755 MHz and 2110–2155 MHz bands:

(1) The power of each fixed or base station transmitting in the 2110–2155 MHz band and located in any county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to:

(A) an equivalent isotropically radiated power (EIRP) of 3280 watts when transmitting with an emission bandwidth of 1 MHz or less;

(B) an EIRP of 3280 watts/MHz when transmitting with an emission bandwidth greater than 1 MHz.

(2) The power of each fixed or base station transmitting in the 2110–2155 MHz band and situated in any geographic location other than that described in paragraph (d)(1) is limited to:

(A) an equivalent isotropically radiated power (EIRP) of 1640 watts when transmitting with an emission bandwidth of 1 MHz or less;

(B) an EIRP of 1640 watts/MHz when transmitting with an emission bandwidth greater than 1 MHz.

(3) A licensee operating a base or fixed station in the 2110–2155 MHz band utilizing a power greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP must coordinate such operations in advance with all Government and non-Government satellite entities in the 2025–2110 MHz band. Operations with power greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP must be coordinated in advance with the following licensees authorized to operate within 120 kilometers (75 miles) of the base or fixed station operating in this band: all Broadband Radio Service (BRS) licensees authorized under part 27 in the 2155–2160 MHz band and all advanced wireless services (AWS) licensees authorized to operate on adjacent frequency blocks in the 2110–2155 MHz band.

(4) Fixed, mobile, and portable (hand-held) stations operating in the 1710–1755 MHz band are limited to 1 watt EIRP. Fixed stations operating in this band are limited to a maximum antenna height of 10 meters above ground. Mobile and portable stations operating in this band must employ a means for limiting power to the minimum necessary for successful communications.

(5) Equipment employed must be authorized in accordance with the provisions of § 24.51. Power measurements for transmissions by stations authorized under this section may be made either in accordance with a Commission-approved average power technique or in compliance with paragraph (d)(6) of this section. In measuring transmissions in this band using an average power technique, the peak-to-average ratio (PAR) of the transmission may not exceed 13 dB.

(6) Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, *etc.,* so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673-8011-02]

RIN 0648–XH62

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch by vessels participating in the Bering Sea and Aleutian Islands (BSAI) trawl