Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV:				
Kentucky: Carroll County, Unincorporated Areas.	210045	March 26, 1997, Emerg, September 1, 1998, Reg, July 17, 2007, Susp.	07/17/2007	07/17/2007.
Prestonville, City of, Carroll County	210047	August 2, 1976, Emerg, September 18, 1986, Reg, July 17, 2007, Susp.	*Do ...	Do.

*Do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: July 13, 2007.

David I. Maurstad,

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

[FR Doc. E7–14344 Filed 7–24–07; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–2747; MB Docket No. 04–427; RM–11127; RM–11239]

Radio Broadcasting Services; Ammon and Dubois, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of petition for reconsideration.

SUMMARY: At the parties' request, this document dismisses the petition for reconsideration of the *Report and Order* in this proceeding. The withdrawal of the petition for reconsideration was filed jointly by Millcreek Broadcasting, LLC, licensee of Stations KNJQ(FM), Manti, Utah, KUUU(FM), South Jordan, Utah, and KUDD(FM), Roy, Utah; Simmons SLC–LS, LLC, licensee of Stations KDWY(FM), Diamondville, Wyoming, KAOX(FM), Kemmerer, Wyoming, and KRAR(FM), Brigham City, Utah; Rocky Mountain Radio Network, Inc., licensee of Station KRMF(FM), Evanston, Wyoming; 3 Point Media—Coalville, LLC, licensee of Station KCUA(FM), Naples, Utah, and College Creek Broadcasting, LLC successful bidder and applicant for four vacant auction allotments.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MB Docket No. 04–427 adopted June 20, 2007, and released June 22, 2007. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* The Commission will not send a copy of this *Memorandum Opinion and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the petition for reconsideration was dismissed.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–14368 Filed 7–24–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[ET Docket No. 04–151, WT Docket No. 05–96 and ET Docket No. 02–380; FCC 07–99]

Wireless Operations in the 3650–3700 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses petitions for reconsideration filed in response to the Commission's *Report and Order* relating to the 3650–3700 MHz band (3650 MHz band) proceeding. The Commission affirms its previous decisions to create a spectrum environment that will encourage multiple entrants and stimulate the expansion of broadband service to rural and under served areas. To facilitate rapid deployment in the band, the Commissions maintain the previously adopted, non-exclusive licensing scheme. The clarification and modification will facilitate operation of the widest variety of broadband technologies with minimal risk of interference in both the near and long terms. They should further reduce the potential for co-channel interference, provide additional protections to the multiple users in the band under the current licensing regime, and create incentives for the rapid development of broadly compatible contention technologies.

DATES: Effective August 24, 2007.

FOR FURTHER INFORMATION CONTACT: Jeffrey Dygert, Policy and Rules Division, Office of Engineering and Technology, (202) 418–7300, e-mail: *Jeffrey.Dygert@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, ET Docket No. 04–151, FCC 07–99, adopted May 22, 2007 and released June 17, 2007. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.*

Summary of the Memorandum Opinion and Order

1. The Memorandum Opinion and Order (MO&O) addresses petitions for reconsideration filed in response to the Commission's *Report and Order*, 70 FR 24712, May 11, 2005, in prior proceedings relating to the 3650–3700 MHz band (3650 MHz band). The parties petitioning for reconsideration were: BRN Phoenix (BRN); the Enterprise Wireless Alliance (EWA); Intel Corporation, Redline Communications and Alvarion (jointly); Motorola; Redline Communications; the Satellite Industry Association (SIA); the Wireless Communications Association (WCA); and the Wi-Max Forum.

2. The MO&O affirms the Commission's previous decisions to create a spectrum environment that will encourage multiple entrants and stimulate the expansion of broadband service to rural and under served areas. To facilitate rapid deployment in the band, the Commission maintains the previously adopted, non-exclusive licensing scheme. Additionally, the Commission declines to reconsider the requirement that equipment operating in the 3650 MHz band incorporate a contention-based protocol, a technology that permits multiple licensees to share spectrum by ensuring that all licensees receive reasonable opportunities to operate in the band. The Commission clarifies the meaning of contention-based protocol and modifies the rules to limit the operation of equipment using ''restricted'' contention-based protocols (those that are not capable of avoiding co-frequency interference with all other types of contention-based protocols) to the lower 25 megahertz portion of the 3650 MHz band. The Commission's actions should facilitate operation of the widest variety of broadband technologies with minimal risk of interference in both the near and long terms. The order should further reduce the potential for co-channel interference, provide additional protections to the multiple users in the band under the current licensing regime, and create incentives for the rapid development of broadly compatible contention technologies.

3. Additionally, the Commission denies requests for reconsideration of the previously adopted power limits for fixed and mobile transmissions in the band, concluding that the limits adopted serve to protect against interference both among the band's licensees and with satellite earth stations. Finally, it denies requests to modify the out-of-band emission limits in the rules and declines to revise the rules regarding coordination with satellite licensees operating in the grandfathered exclusion zones around satellite earth stations.

Licensing and Use of the Band

4. The Commission adopted a nationwide non-exclusive licensing scheme for the 3650 MHz band in order to create a spectrum environment conducive to the prompt entry by multiple broadband providers in under-served markets—and at low entry costs and with minimal regulatory delay. The Commission concluded that the non-exclusive licensing model, in conjunction with operational and technical safeguards (such as the contention-based protocol and a registration requirement), would obligate licensees to cooperate to avoid harmful interference. The Commission concluded that the licensing rules it adopted would ''ensure open access to this spectrum for nominal application fees and allow effective and efficient use of this spectrum in response to market forces.'' This, the Commission reasoned, would encourage ''rapid deployment of broadband technologies'' and advance the ''goal of bringing broadband services to all Americans, including consumers living in less densely populated rural and suburban areas.

5. All of the arguments for making modifications to the licensing rules rest on the assumption that non-exclusive licensing will frustrate potential users of the band and its efficient use. The Commission disagrees with these projections. While it acknowledges that the use of a non-exclusive licensing approach must be accompanied with the means to ensure that multiple users can operate successfully in the band, the Commission concludes that it adopted appropriate and practical mechanisms to ensure such an outcome.

6. The Commission declines to alter the band's cooperation requirement to approximate the rights available in an exclusive licensing model. It is not persuaded that the various steps that parties suggest in this regard would more effectively further the public interest and the Commission's goals in this proceeding than the current non-exclusive licensing scheme or that the benefits of these proposed changes overweigh the costs. For example, creating the type of first-in-time rights that parties suggest would give initial market entrants the ability to structure their operations in a manner that could impede subsequent providers' ability to offer viable services and diminish any incentive that such initial market entrants might have in negotiating interference avoidance measures to accommodate new entrants. Requiring the use of third-party frequency coordinators would also add an unnecessary extra layer of process that operators would have to satisfy before deploying their equipment and initiating service. Given the use of contention protocols in the band, the Commission declines to require a separate entity to serve as a gate-keeper for the spectrum. Similarly, performance standards and the attendant reporting obligation would

duplicate the discipline that the market will already provide. If an operator is not providing adequate service, other operators will be free to deploy their facilities in the market and begin their own operations.

7. The Commission disagrees that non-exclusive licensing will make the band unusable. The licensing procedures adopted for the band provide no first-in-time right to exclude others from entering a market, as would be necessary to make squatting behavior profitable. To the contrary, the cooperation and contention-based protocol rules both require that licensees take various steps to accommodate (or at least avoid interfering with) the operations of other licensees in their area. Similarly, these requirements should eliminate licensee behavior that could overcrowd the band to the detriment of all users. They will prevent licensees from consuming the full band and crowding out the transmissions of other operators. Licensees that must coordinate their operations with other licensees and deploy equipment that avoids harmful interference will not be able to overwhelm their neighbors.

8. In contrast to an exclusive licensing model in which a licensee may exclude others from a particular license area, the non-exclusive licensing model adopted in the *3650 MHz Order* requires a potential entrant to consider that the presence of other licensees will require cooperative use and may, at times, restrict the amount of spectrum and/or time that spectrum is available to any particular licensee. That trade-off, however, does not automatically render the spectrum unusable.

Contention-Based Protocol

9. In the *3650 MHz Order,* the Commission explained that contention-based protocols, which it required for fixed, base and mobile equipment operating in the band, would ''allow multiple users to share the same spectrum by defining the events that must occur when two or more devices attempt to simultaneously access the same channel and establishing rules by which each device is provided a reasonable opportunity to operate.'' The Commission's goal in adopting the contention requirement was to speed deployment in the 3650 MHz band by allowing multiple entrants to provide service. It saw the protocol as a means to ''ensure efficient and cooperative shared use of the spectrum.'' The Commission chose not to require a specific contention-based protocol, leaving it to industry and standards bodies to determine appropriate protocols. The Commission cautioned, though, that equipment would not be certified for use in the band if it appeared ''to be designed to preclude others from using this spectrum.'' The Commission stated that it would monitor use of the spectrum, and would modify the rules if there appeared to be significant problems in this regard.

10. The Commission concludes that the public interest is best served by retaining the requirement that fixed, base and mobile equipment operating in the band incorporate a contention-based protocol. Given the decision to retain non-exclusive licensing in the 3650 MHz band, the Commission continues to believe that equipment incorporating a contention-based protocol will provide a cost-effective means to enable multiple users to operate on the same frequencies in the band without interfering with one another. With contention-based protocol requirement, operators and their customers will not have to rely on frequency coordination prior to the initiation of service; this will reduce costs and delay.

11. The Commission is not persuaded that the shortcomings that petitioners ascribe to contention protocols will necessarily limit use of the band to short range applications. Competing evidence indicates that contention technology is suitable for many different applications that the *3650 MHz Order* envisioned, including long range operations. Long range transmissions typically would be point-to-point using narrow beams. Point-to-point transmissions at the power limits adopted for the band will have a lower potential for interference and allow providers to use this band for backhaul operations, especially in less congested rural areas. The Commission's goal of providing for multiple entrants in the band can best be accomplished if users have the flexibility to choose the technology most appropriate to meet their needs. Accordingly, the Commission denies those petitions for reconsideration that seek elimination of the contention protocol requirement.

12. The Commission clarifies that the 3650 MHz rules provide for certification of a variety of devices that may use different types of protocols or interference avoidance mechanisms that satisfy the contention definition that applies to the 3650 MHz band. The definition of what constitutes a valid contention protocol for the 3650 MHz band is broad enough to encompass different types of contention protocols and interference avoidance mechanisms, thereby promoting innovation and product development. As stated in the 3650 MHz *Order*, equipment for use in the 3650 MHz band must incorporate a mechanism that allows ''multiple users to share the same spectrum * * * and establish[es] rules by which each device is provided a reasonable opportunity to operate.''

13. The record reveals two broad categories of contention-based protocols, both of which appear to the requirements for operation in the 3650 MHz band. Nonetheless, they may not be compatible with each other, and the use of both types could result in co-frequency interference and thus frustrate the Commission's goal of allowing for multiple entrants in the band. Under the Commission's rules, contention-based protocols can be categorized as either ''unrestricted'' or ''restricted.'' Unrestricted protocols are broadly compatible and function to prevent interference even with other, dissimilar contention technologies on the market. A listen-before-talk technology like that in Wi-Fi devices is a prime example of an unrestricted contention-based protocol. On the other hand, restricted contention protocols can prevent interference only with other devices incorporating the same protocol.

14. Allowing the use of different protocols in the band will serve the goal of speeding deployment of service, since operators will be able to deploy many different technologies, including those already being developed for use in the 3650 MHz band world-wide. Nonetheless, the potential exists for conflict between certain types of protocols, which could result in interference and/or a denial of access to the band for certain users. To resolve this conflict, the Commission will certify equipment using a restricted contention protocol but will limit the operation of such equipment to the lower 25 megahertz of the 3650 MHz band. On the other hand, equipment using an unrestricted contention protocol will be allowed to operate throughout the 50 megahertz in the 3650 MHz band, since it will be able to detect other transmissions throughout the band and thus avoid co-frequency interference anywhere in the band. The Commission concludes that this approach will ensure efficient use of the spectrum and permit the prompt deployment in this country of equipment that is already being used in this spectrum in other countries around the globe. Permitting a number of different contention based technologies to operate in the band will also provide additional flexibility to licensees to choose the best suitable technology for the type of services they plan to provide.

15. The Commission will implement this approach through the equipment certification process, under which it will examine for compliance with the rules all equipment proposed for use in the 3650 MHz band. It will condition the certification for equipment using a restricted protocol to limit its operation and tuning range to the bottom 25 megahertz of the band. The registration database will include the FCC identification number, reflecting the equipment certification condition restricting the licensee's operating frequency range if the licensee employs equipment using a restricted contention-based protocol.

16. The Commission recognizes that manufacturers, through software upgrades or other means may alter the emission characteristics of previously deployed devices so that they move from the restricted to the unrestricted category. To the extent that this occurs, the manufacturer will be responsible for complying with the Commission's rules regarding the need for new equipment certification before the device will be permitted to tune over the full 50 megahertz of the 3650 MHz band. Further, affected licensees must update their base and fixed station registrations to reflect this change.

17. By contrast, the Commission will not condition the certification for equipment incorporating an unrestricted contention-based protocol, thus allowing such equipment to operate throughout the full 50 MHz of the band. This should create an added incentive for industry groups and manufacturers to speed their development and deployment of such technology. In the long term, this, should improve the quality of service in the 3650 MHz band, furthering the public interest. At the same time, however, permitting restricted contention technologies to operate in the lower 25 MHz of the band will ensure that a wider range of currently available equipment may be immediately deployed in the band.

18. The Commission denies the petitions for reconsideration to the extent that they seek elimination of the requirement that equipment in the 3650 MHz band incorporate a contention-based protocol.

19. The Commission notes the request by BRN Phoenix that the Commission certify its Advanced Antenna System as the (apparently sole) contention-based protocol for use in the 3650 MHz band. The Commission expects that a variety of different contention technologies will qualify for deployment in the band. BRN, like other parties may seek certification for its Advanced Antenna System from the Laboratory Division of the Commission's Office of Engineering and Technology.

Emissions Limits

20. In setting the power limits for transmissions in the 3650 MHz band, the Commission balanced numerous competing factors to ''serve the public interest and foster the expeditious introduction of new terrestrial services in the 3650 MHz band.'' These factors included (1) the importance of interference protection for grandfathered satellite earth stations and federal government radiolocation stations and (2) the need to ensure efficient use of the band by avoiding mutual interference among licensed operators. To this end, the Commission adopted a peak power density of 25 Watts per 25 MHz of bandwidth and no greater than 1 watt per 1 MHz of bandwidth for fixed operations and imposed a limit of 1 Watt per 25 MHz of bandwidth for mobile operations.

Fixed and Mobile Power Limits

21. The Commission declines to increase the power limits for either fixed or mobile operations in the 3650 MHz band. In adopting power limits for this band, the Commission balanced the potential for inter-service and intra-service interference with the need to provide for satisfactory service by 3650 MHz devices. At the same time, the Commission was concerned that the combination of power limits and the size of the earth station exclusion zones that it adopted would adequately protect from harmful interference the grandfathered satellite operations and Federal Government radiolocation stations.

22. The Commission concludes that the *3650 MHz Order* set the 3650 MHz power limits at an appropriate level. The levels adopted are adequate to support commercially viable services and will allow licensees to operate effectively in the band without unacceptably interfering with each other's operations (provided they deploy equipment incorporating an appropriate contention technology). At the same time, the power limits, combined with the size of the protection zones for grandfathered satellite earth stations, will prevent terrestrial operations in the band from interfering with in-band satellite operations.

Advanced Antenna Systems

23. The Commission declines BRN's request to reconsider the limit on power output in the 3650 MHz band. In the *3650 MHz Order,* the Commission balanced the public interest factors that BRN raises in its petition. Specifically, it considered the issues surrounding ''deployment of advanced antenna systems, including sectorized and adaptive array systems.'' It balanced the need for ''flexibility for licensees to employ a wide variety of advanced antennas to meet their needs'' with the goal of protecting satellite earth stations. In so doing, it concluded that, ''to allow flexibility in deployment'' of these systems, it would allow such antennas to operate with a slightly higher power output. BRN Phoenix identifies no deficiency in the Commission's decision that would warrant reconsideration. Accordingly, the Commission denies its petition in this regard.

FSS Satellite Issues

24. The Commission took several steps to minimize the extent to which terrestrial operations in the 3650 MHz band would affect the operations of satellite operators in both the conventional C-band (3700–4200 MHz) and the extended C-band (3625–3700 MHz). First, the Commission established protection zones with a radius of 150 km around the earth stations of grandfathered Fixed Satellite Service (FSS) operators in the 3650 MHz band. The Commission ruled that licensees in the 3650 MHz band could establish Fixed Service operations within the protection zones only with the consent of the affected FSS operator. For 3650 MHz licensees, the Commission established fixed station operating power limits of 25 Watts and mobile station operating power limits of 1 Watt. Additionally, the Commission sought to avoid out-of-band interference by requiring operators to limit emissions into adjacent bands by a minimum attenuation of 43 + 10 log(P) below the transmit power.

Out-of-Band Interference

25. The Satellite Industry Association (SIA) sought reconsideration of *the 3650 MHz Order,* arguing that the newly authorized terrestrial operations in the 3650 MHz band will create interference in the adjacent 3700–4200 band that, contrary to the public interest, could disrupt C–band satellite operations. The Commission concludes that SIA's analysis contains overly conservative assumptions about path loss attenuation, the necessary C/I protection ratio and the arrival angle of a 3650 MHz signal at a satellite earth station. Each of these assumptions contributes to the overly pessimistic picture that SIA paints in its analysis. When these assumptions are adjusted to reflect more realistic operational scenarios the attenuation requirement in the *3650*

MHz Order adequately protects operations in adjacent bands.

26. The Commission may, however, require greater suppression of the out-of-band emissions of a 3650 MHz operator in those rare instances when a 3650 MHz transmitter falls near the main beam and in a line of sight of a satellite earth station.

Power Limits and LNB Saturation

27. SIA argued that the potential exists for emissions from the 3650 MHz transmitters to saturate the low noise block converters (LNBs) on FSS earth stations operating in the adjacent C–band at 3700–4200 MHz. SIA requests that the Commission reconsider the permissible power level for fixed and base stations, at least in the upper half of the 3650 MHz band (that closest to the C–band) and set it at a level below the 25-watt figure that the prior order adopted.

28. The Commission declines to reconsider the permissible power limits in the 3650 MHz band as SIA requests. A review of the analysis that SIA provides for its argument on LNB saturation reveals that it is based on two very conservative assumptions. The predicted saturation is most pronounced when the arrival angle of the satellite antenna is 5 degrees. At greater arrival angles—as will exist for the great majority of earth stations—the interference projected by SIA's analysis is reduced. The Commission also notes that SIA has again assumed free space assumptions for its propagation analysis. Employing a path loss exponent greater than 2, as was done for the OOB emissions estimate, significantly reduces the potential interference.

29. Given the smaller separation distances necessary to alleviate LNB saturation predicted by a more realistic propagation model, a modest coordination effort should allow satellite earth stations to operate effectively, despite the presence of nearby operations in the 3650 MHz band. The Commission expects 3650 MHz licensees and satellite operators to undertake such coordination where necessary. The registration requirement for fixed and base station operations in the band will facilitate this coordination. In the registration process, licensees in the 3650 MHz band will be required to provide identification and location information for their fixed and base stations, as well as the technical information necessary for interference analysis.

30. The Commission rejects the argument that the authorization of operations in the 3650 MHz band improperly places the burden of avoiding interference on incumbents. It is not Commission policy to protect incumbent licensees against all emissions from adjacent bands; this is particularly true when the emissions are a foreseeable result of prior allocation orders. Installation of appropriate filters on satellite earth stations can adequately address the LNB saturation issue that SIA now raises.

Satellite Coordination Requirements

31. Petitioners urge the Commission to impose the guidelines of the Commission's part 101 rules as a framework for the coordination of 3650 MHz operations within the exclusion zones established around grandfathered FSS earth stations. They contend that this would expedite fixed station entry without creating interference risk to the grandfathered FSS earth stations.

32. The Commission declines to adopt the part 101 rules as the sole means of coordination for those 3650 MHz licensees seeking to operate fixed services within the exclusion zones that the Commission established around grandfathered FSS earth stations. The part 101 rules, *inter alia,* ''prescribe the manner in which portions of the radio spectrum may be made available for private * * * microwave operations that require transmitting facilities on land.'' In doing so, however, they set out specific coordination procedures and interference protection criteria for covered fixed microwave transmitters. Rather than impose these specific procedures and criteria, the Commission prefers to allow the parties involved to choose for themselves the rules governing their particular negotiations.

Ordering Clauses

33. Pursuant to the authority contained in sections 4(i), 302, 303(e), 303(f), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(c), 303(f), and 307, this Order on Reconsideration is hereby adopted.

34. Pursuant to sections 4(i), 302, 303(e), 303(f), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g), and 405, that the petitions for reconsideration, filed by Motorola and Redline and seeking clarification regarding the contention-based protocol requirement are granted to the extent discussed in the Memorandum Opinion and Order.

35. Part 90 of the Commission's rules is amended as specified in rule changes, and such rule amendments shall be effective August 24, 2007.

36. Pursuant to sections 4(i), 302, 303(e), 303(f), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(g), and 405, that the remainder of the petitions for reconsideration filed by Motorola and Redline, as well as the reconsideration petitions of BRN Phoenix, the Enterprise Wireless Alliance, the Satellite Industry Association, the Wireless Communications Association, the Wi-Max Forum, and the joint petition of Intel, Redline and Alvarion are denied.

Report to Congress

37. The Commission will send a copy of the Memorandum Opinion and Order, in a report to be sent to Congress pursuant to the Congressional Review Act.[1] In addition, the Commission will send a copy of the Memorandum Opinion and Order, to Congress and the Government Accountability Office.

List of Subjects in 47 CFR part 90

Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rule

■ For reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 to read as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 2. Section 90.7 is amended by revising the definition of ''Contention-based protocol'' to read as follows.

§ 90.7 Definitions.

* * * * *

Contention-based protocol. A protocol that allows multiple users to share the same spectrum by defining the events that must occur when two or more transmitters attempt to simultaneously access the same channel and establishing rules by which a transmitter provides reasonable opportunities for other transmitters to operate. Such a protocol may consist of procedures for initiating new transmissions, procedures for determining the state of the channel

[1] *See* 5 U.S.C. 801(a)(1)(A).

(available or unavailable), and procedures for managing retransmissions in the event of a busy channel. Contention-based protocols shall fall into one of two categories:

(1) An unrestricted contention-based protocol is one which can avoid co-frequency interference with devices using all other types of contention-based protocols.

(2) A restricted contention-based protocol is one that does not qualify as unrestricted.

* * * * *

■ 3. Section 90.203 is amended by revising paragraph (o) to read as follows:

§ 90.203 Certification required.

* * * * *

(o) *Equipment certification for transmitters in the 3650–3700 MHz band.* (1) Applications for all transmitters must describe the methodology used to meet the requirement that each transmitter employ a contention based protocol and indicate whether it is capable of avoiding co-frequency interference with devices using all other types of contention-based protocols (see §§ 90.7, 90.1305 and 90.1321 of this part);

(2) Applications for mobile transmitters must identify the base stations with which they are designed to communicate and describe how the requirement to positively receive and decode an enabling signal is incorporated (see § 90.1333 of this part); and

(3) Applications for systems using advanced antenna technology must provide the algorithm used to reduce the equivalent isotropically radiated power (EIRP) to the maximum allowed in the event of overlapping beams (see § 90.1321 of this part).

(4) Applications for fixed transmitters must include a description of the installation instructions and guidelines for RF safety exposure requirements that will be included with the transmitter. (See § 90.1335).

■ 4. Section 90.1319 is revised to read as follows:

§ 90.1319 Policies governing the use of the 3650–3700 MHz band.

(a) Channels in this band are available on a shared basis only and will not be assigned for the exclusive use of any licensee.

(b) Any base, fixed, or mobile station operating in the band must employ a contention-based protocol.

(c) Equipment incorporating an unrestricted contention-based protocol (i.e. one capable of avoiding co-frequency interference with devices using all other types of contention-based protocols) may operate throughout the 50 megahertz of this frequency band. Equipment incorporating a restricted contention-based protocol (i.e. one that does not qualify as unrestricted) may operate in, and shall only tune over, the lower 25 megahertz of this frequency band.

(d) All applicants and licensees shall cooperate in the selection and use of frequencies in the 3650–3700 MHz band in order to minimize the potential for interference and make the most effective use of the authorized facilities. A database identifying the locations of registered stations will be available at *http://wireless.fcc.gov/uls*. Licensees should examine this database before seeking station authorization, and make every effort to ensure that their fixed and base stations operate at a location, and with technical parameters, that will minimize the potential to cause and receive interference. Licensees of stations suffering or causing harmful interference are expected to cooperate and resolve this problem by mutually satisfactory arrangements.

[FR Doc. E7–14211 Filed 7–24–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XB66

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

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 in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Pacific ocean perch in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 22, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 TAC of Pacific ocean perch in the Western Regulatory Area of the GOA is 4,244 metric tons (mt) as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 TAC of Pacific ocean perch in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,194 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 19, 2007.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of